



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

| COUNCIL MEMBERS | REDEVELOPMENT AGENCY |
|-------------------------------|-----------------------------|
| Dennis Kennedy, Mayor | Dennis Kennedy, Chair |
| Steve Tate, Mayor Pro Tempore | Steve Tate, Vice-Chair |
| Larry Carr, Council Member | Larry Carr, Agency Member |
| Mark Grzan, Council Member | Mark Grzan, Agency Member |
| Greg Sellers, Council Member | Greg Sellers, Agency Member |

WEDNESDAY, SEPTEMBER 7, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: Berkman v. City of Morgan Hill et al.
Case Number: Santa Clara County Superior Court, 1-04-CV-031021

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

National Breast Cancer Awareness Month
Mayor Kennedy

National Mammography Day
Mayor Kennedy

Prostate Cancer Awareness Month
Mayor Kennedy

RECOGNITIONS

Green Business Recognition
Agriculture and Resource Management South County Office -Kevin O'Day and Greg van Wassenhove
St Catherine's Church - Loran Allen and Jeanette Thatcher
Gretchen Hefner, Santa Clara County Green Business Program

PRESENTATION

Leadership Morgan Hill re: Recycling Campaign
David Cohen

CITY COUNCIL REPORT

Council Member Sellers

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-15

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Consent Calendar: 1 - 10 Minutes

Page

1. [PROCLAMATION DECLARING SEPTEMBER 14, 2005 AS NATIONAL ANTHEM PROJECT DAY IN MORGAN HILL](#)8
Recommended Action(s):
 1. **Approval** of a Proclamation Endorsing the National Anthem Project; and
 2. **Authorize** the Mayor to Forward the National Anthem Project All-Star City Application to the Public Safety and Community Services Subcommittee.

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| Time Estimate | |
| Consent Calendar: 1 - 10 Minutes | |
| 2. <u>ESTABLISH SISTER CITY RELATIONSHIP WITH HEADFORD, IRELAND</u> | 9 |
| Recommended Action(s): Adopt Resolution Establishing a Formal Sister City Relationship with the City of Headford, Ireland. | |
| 3. <u>SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP</u> | 12 |
| Recommended Action(s): Authorize the City Manager to Execute a Second Amendment to Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP. | |
| 4. <u>SUPPORT OF AB 1421 REGARDING PROVISION OF REPLACEMENT WATER</u> | 13 |
| Recommended Action(s): Support Legislation. | |
| 5. <u>FINAL MAP APPROVAL FOR ROYAL COURT (TRACT 9629)</u> | 14 |
| Recommended Action(s): | |
| 1. Approve the Final Map, Subdivision Agreement and Improvement Plans; | |
| 2. Authorize the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City, and | |
| 3. Authorize the Recordation of the Map and the Subdivision Improvement Agreement Following the Recordation of the Development Improvement Agreement. | |
| 6. <u>CITY POSITION ON PROPOSED VALLEY TRANSPORTATION AUTHORITY (VTA) LONG TERM TRANSIT CAPITAL INVESTMENT PROGRAM AND POTENTIAL QUARTER-CENT SALES TAX INCREASE</u> | 15 |
| Recommended Action(s): The Regional Planning and Transportation Council Subcommittee Recommends Sending a Letter to the VTA Responding to Correspondence from San Jose Mayor Gonzales and the Silicon Valley Leadership Group and Clarifying the City's Position on the Long Term Transit Capital Plan and on the Quarter-Cent Sales Tax Proposal. | |
| 7. <u>AWARD OF WATERWISE DEMONSTRATION GARDENS PROJECT</u> | 16 |
| Recommended Action(s): | |
| 1. Appropriate \$30,000 from the Current Year Un-Appropriated Water System Replacement Fund Balance (653) in the Project Account (#126005); | |
| 2. Award Contract to Suarez and Munoz Construction for the Construction of the Waterwise Demonstration Gardens Project in the Amount of \$137,234; and | |
| 3. Authorize Expenditure of Construction Contingency Funds not to exceed \$13,723. | |
| 8. <u>APPROVE WATER METER SOLE SOURCE PURCHASE</u> | 17 |
| Recommended Action(s): | |
| 1. Approve Purchase of Water Meters, Meter Parts and MXUs (Radio Transmitters) From Invensys Metering Systems; and | |
| 2. Approve Purchase Order of \$299,300 to Invensys Metering Systems for the Annual Supply of Water Meters, Meter Parts and MXUs. | |
| 9. <u>VACATION OF A PORTION OF A PUBLIC SERVICE EASEMENT ON PARCEL A, PER MAP BOOK 771, PAGES 44-45</u> | 18 |
| Recommended Action(s): | |
| 1. Adopt Resolution Declaring Summary Vacation of a Portion of a Public Service Easement on Parcel A, Per 771 M 44-45; and | |
| 2. Direct the City Clerk to File a Certified Copy of the Resolution in the Office of the Santa Clara County Recorder. | |

| | | |
|-----|---|-------------|
| | Time Estimate | Page |
| | Consent Calendar: 1 - 10 Minutes | |
| 10. | <u>AWARD PROFESSIONAL SERVICES CONTRACT TO PREPARE CONSTRUCTION DESIGN AND BIDDING DOCUMENTS FOR COMMUNITY PARK IMPROVEMENTS PHASE I</u>21 Recommended Action(s): <u>Authorize</u> the City Manager to Execute a Consultant Agreement with Bellinger, Foster, Steinmetz Landscape Architecture in the Amount of \$114,600 for the Preparation of Construction Design and Bidding Documents for Phase I of the Community Park Improvements Project, Subject to Review and Approval of Interim City Attorney. | |
| 11. | <u>APPROVAL OF PROGRAM SUPPLEMENT AGREEMENT NO. 006 FOR FEDERAL-AID PROJECT NO. 04-5152: DEPOT STREET RECONSTRUCTION PROJECT</u>22 Recommended Action(s): 1. <u>Approve</u> the Program Supplemental Agreement with Caltrans for the Depot Street Reconstruction Project; and 2. <u>Adopt</u> Resolution Designating the City Manager as the City Official Authorized to Sign the Funding Agreement. | |
| 12. | <u>REPORT ON DEPOT STREET RECONSTRUCTION NEIGHBORHOOD MEETING</u>24 Recommended Action(s): <u>Information</u> Only. | |
| 13. | <u>RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2005 QUATERLY REPORT #2</u>25 Recommended Action(s): <u>Accept</u> and <u>File</u> the RDCS Second Quarter Report for 2005. | |
| 14. | <u>ADOPT ORDINANCE NO. 1735, NEW SERIES, AS AMENDED</u>26 Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1735, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL CC-R, TO PLANNED UNIT DEVELOPMENT PUD, BRINGING THE PARCELS INTO CONFORMANCE WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN (APNs 726-13-032, 033, 034, 041, 042, 043, 044). | |
| 15. | <u>ADOPT ORDINANCE NO. 1736, NEW SERIES</u>33 Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1736, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 1.01.010 G OF CHAPTER 1.01 (CODE ADOPTION) OF TITLE 1 (GENERAL PROVISIONS), AMENDING SECTION 15.12.020 (ADOPTION OF THE CALIFORNIA ELECTRICAL CODE) AND ADDING SECTION 15.12.040 (ADDING CALIFORNIA ELECTRICAL CODE ARTICLE 334.12 REGARDING NON-METALLIC-SHEATHED CABLES) TO THE MORGAN HILL MUNICIPAL CODE TO INCLUDE THE CURRENT EDITION OF THE CALIFORNIA ELECTRICAL CODE. | |

Redevelopment Agency and City Council Action

CONSENT CALENDAR:

ITEM 16

Time Estimate

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Consent Calendar: 1 - 10 Minutes

16. [APPROVE JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST 24, 2005](#)37

City Council Action (Continued)

CONSENT CALENDAR:

ITEM 17

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

17. [AWARD CONTRACT FOR CONSTRUCTION OF PEDESTRIAN CROSSING IMPROVEMENTS AT MONTEREY ROAD AND CENTRAL AVENUE](#)54

Recommended Action(s):

1. **Appropriate** \$70,000 from the Measure C Schools Pedestrian and Traffic Safety Fund into the Project Account Number 538005;
2. **Award** Contract to Granite Construction Company for the Construction of Pedestrian Crossing Improvements at Monterey Road and Central Avenue in the Amount of \$232,232; and
3. **Authorize** Expenditure of Construction Contingency Funds not to exceed \$23,223.

City Council Action

PUBLIC HEARINGS:

Time Estimate

Page

18. **5 Minutes** [ZONING AMENDMENT, ZA-04-16/ DEVELOPMENT AGREEMENT, DA-04-05: BARRETT-ODISHOO](#)55

Public Hearing Opened.

Please Limit Your Remarks to 3 Minutes. Public Hearing Closed

Council Discussion.

Action- **Approve** the Mitigated Negative Declaration.

Action- **Motion to Waive** the Reading in Full of the Zoning Amendment Ordinance.

Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

Action- **Motion to Waive** the Reading in Full of the Development Agreement Ordinance.

Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

City Council Action

OTHER BUSINESS:

| | Time Estimate | | Page |
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| 19. | 10 Minutes | <u>REQUEST BY SENIOR ADVISORY COMMITTEE</u> | 60 |
| | | <u>Recommended Action(s):</u> | |
| | | 1. <u>Review</u> and <u>Discuss</u> Recommendations from the Public Safety and Community Services Committee Regarding the Senior Advisory Committee; and | |
| | | 2. <u>Direct</u> Staff to Prepare Changes to the Municipal Code, as Appropriate. | |
| 20. | 15 Minutes | <u>IMPROVING THE EFFECTIVENESS OF CITY COUNCIL MEETINGS</u> | 73 |
| | | <u>Recommended Action(s):</u> | |
| | | 1. <u>Consideration</u> and <u>Discussion</u> Regarding the Proposal to Improve Effectiveness of City Council Meetings; | |
| | | 2. <u>Adopt</u> Items 1-10 from the List of “Improving the Effectiveness of Council Meetings,” as Deemed Appropriate; and | |
| | | 3. <u>Identify</u> Implementation Date. | |
| 21. | 10 Minutes | <u>BOARD, COMMISSION, AND COMMITTEE MEMBERS’ COMMENTS ON THE CITY COUNCIL ETHICS POLICY</u> | 76 |
| | | <u>Recommended Action(s):</u> | |
| | | 1. <u>Discussion</u> Regarding the List of Comments Received from Commission, Committee and Board Members Regarding the Council’s Ethics Policy; and | |
| | | 2. <u>Determine</u> if Comments are to be Incorporated into the City Council Adopted Ethics Policy; and | |
| | | 3. <u>Direct</u> Staff to Schedule Board, Commission, and Committee Ethics Policy Workshop. | |

City Council and Redevelopment Agency Action

OTHER BUSINESS:

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| 22. | 5 Minutes | <u>REVIEW CITY COUNCIL AND REDEVELOPMENT AGENCY’S SEPTEMBER, NOVEMBER, DECEMBER AND JANUARY MEETING SCHEDULE</u> | 77 |
| | | <u>Recommended Action(s):</u> <u>Discuss</u> and <u>Direct</u> Staff Regarding the September, November, December, and January Meeting Schedule. | |

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item #1

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

PROCLAMATION DECLARING SEPTEMBER 14, 2005 AS NATIONAL ANTHEM PROJECT DAY IN MORGAN HILL

RECOMMENDED ACTIONS:

1. Approval of a Proclamation Endorsing the National Anthem Project; and
2. Authorize the Mayor to forward the National Anthem Project All-Star City Application Form to the Public Safety and Community Services Subcommittee

EXECUTIVE SUMMARY:

Mayor Kennedy is in receipt of a letter from John J. Mahlmann, Executive Director of the MENC: National Association of Music Education, informing him that the MENC has launched *The National Anthem Project – Restoring America’s Voice* in response to a survey showing that nearly $\frac{2}{3}$ of Americans do not know the words to the National Anthem. The Project proposes to teach Americans to sing the Star-Spangled Banner and spotlights the important role of school music programs. Mr. Mahlmann is requesting that the City of Morgan Hill participate in this Project by becoming a National Anthem Project All-Star City (see attached letter from Mr. Mahlmann for further details).

At the 73rd Annual U.S. Conference of Mayors held in Chicago, IL on June 10-14, 2005, the United States Conference of Mayors adopted a resolution urging mayors to participate in the National Anthem Project by issuing proclamations in support of the project. A proclamation proclaiming September 14 as National Anthem Project Day is attached for Council consideration as well as a copy of the National Anthem Project All-Star City Application Form.

In order to receive the National Anthem Project All-Star City designation, the City will need to submit an application agreeing to:

- allow display of the official project logo on public signs, documents and web pages for the duration of the project;
- encourage singing the National Anthem at all official municipal functions and ceremonies;
- promote quality music education programs in schools to ensure that all children learn America’s musical and historical heritage; and
- consider planning a citywide celebration to coincide with and in support of the world record performance of the National Anthem, tentatively scheduled for the summer of 2007.

FISCAL IMPACT: No Budget Impact associated with the approval of the Proclamation. Costs associated with the commitment of activities associated with the “National Anthem Project All-Star City” designation are unknown at this time.



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

ESTABLISH SISTER CITY RELATIONSHIP WITH HEADFORD, IRELAND

RECOMMENDED ACTIONS:

Adopt a resolution establishing a formal Sister City relationship with the City of Headford, Ireland,

EXECUTIVE SUMMARY:

In August, 2001 the City Council adopted a resolution making San Casciano in Val di Pesa, Italy Morgan Hill's first international Sister City. In March, 2003 the City Council approved San Martin de Hidalgo, Mexico as the City's second Sister City.

On a recent visit to Ireland with Bernie Mulligan, a Morgan Hill resident and businessman, Mayor Kennedy discussed the possibility of establishing Sister City relationships with the City of Headford, Ireland. Headford, supported by the surrounding "county" commission has indicated that they are eager to pursue this relationship. In the attached letter, the Sister City Committee of Morgan Hill is requesting the City Council to establish a formal Sister City relationship with Headford.

FISCAL IMPACT: Establishing another formal relationship will involve minor expenses for hosting delegations and other related expenses. In FY05-06, the BAHS Economic Development budget (317) allocates \$3,000 for City involvement with Sister City activities.

Attachment

Agenda Item # 2

Prepared By:

BAHS Analyst

Approved By:

BAHS Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL TO ESTABLISH A FORMAL SISTER CITY RELATIONSHIP WITH THE CITY OF HEADFORD, IRELAND

WHEREAS, the City of Morgan Hill is a member in good standing with Sister Cities International; and,

WHEREAS, the City of Morgan Hill has been seeking a city in Ireland with which to establish a friendship; and,

WHEREAS, the City of Headford and the City of Morgan Hill have discovered many mutual aspects of heritage, agriculture, education, business and governance; and,

WHEREAS, Mayor Kennedy has visited Headford, Ireland, where the City Council and the "Twinning" Committee expressed a desire to establish a Sister City relationship with Morgan Hill; and,

WHEREAS, the Sister City Committee of Morgan Hill has requested that the City Council establish a Sister City relationship with Headford, Ireland.

NOW THEREFORE, the City Council of the City of Morgan Hill does hereby resolve, on the basis of the facts set forth in the agenda report presented to it and on the testimony received at the meeting at which this matter was considered, as follows:

SECTION 1. The City Council hereby establishes a formal Sister City relationship with the City of Headford, Ireland upon receipt of a reciprocal resolution from that city.

SECTION 2. The City Council hereby authorizes the City Manager to do everything necessary and appropriate to establish the relationship.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th Day of September, 2005 by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNCIL MEMBERS:

COUNCIL MEMBERS:

COUNCIL MEMBERS:

COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on September 7, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP

RECOMMENDED ACTIONS:

Authorize the City Manager to execute a Second Amendment to Agreement with the law firm of Jorgenson, Siegel, McClure & Flegel, LLP.

EXECUTIVE SUMMARY:

On November 19, 2004, the City was served with a Summons and Complaint in an action filed by Judith L. Berkman; A. William Berkman; Marcia Schneider; Kenneth Schneider and Ralph Heron. The City hired the firm of Jorgenson, Siegel, McClure & Flegel, LLP, to defend and represent the City's interest. Fees and costs incurred through December 31, 2004, were paid under the firm's general contract with the City.

On April 26, 2005, the City entered into a contract with Jorgenson, Siegel, McClure & Flegel, LLP, in the amount of \$40,000 to cover legal fees and costs through June 30, 2005, relating primarily to discovery matters. On June 17, 2005, the contract term was extended to September 30, 2005.

Plaintiffs filed a Motion for Summary Adjudication which was heard by the court on August 25, 2005. Plaintiffs' motion was denied. The parties have agreed to participate in non-binding, judicially supervised mediation. It is anticipated that the mediation will be held sometime in November or December 2005. Plaintiffs have indicated their intention to file a Motion for Bifurcation and a Motion for Reconsideration of the Summary Adjudication.

The current contract is insufficient to cover the fees and costs associated with preparing an opposition to and appearance at plaintiffs' motion for summary adjudication, continuing discovery, preparing responses to and appearances at plaintiffs' motion for bifurcation and motion for reconsideration of summary adjudication and preparing for and attending non-binding mediation. Staff is recommending that Council increase the current contract by \$63,000 and approve the attached Second Amendment to Agreement in the amount of \$103,000. Staff also recommends that the contract term be extended to December 31, 2005. This Amendment does not include fees and costs associated with pretrial and trial.

FISCAL IMPACT:

The cost of this agreement will be accommodated in the City Attorney's Office budget.

Agenda Item # 3

Prepared By: _____

(Title)

Submitted By: _____

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

SUPPORT OF AB 1421

RECOMMENDED ACTION(S): Support Legislation

EXECUTIVE SUMMARY: Assemblymember Laird has authored a bill, AB 1421, that clarifies when a Regional Water Quality Control Board may require replacement water to be provided when a water source is discovered to be polluted. To summarize, AB 1421's intention is to authorize the Board to require the provision of replacement water if a water source is discovered to contain a pollutant at levels greater than the natural background level. In the case of drinking water in San Martin, the rules in AB 1421 would allow the Board to require Olin to provide drinking water to private well owners even if perchlorate was detected at levels below the public health goal or future maximum contaminant level.

AB 1421 is now a two-year bill and the Assemblymember is working with water agencies throughout the State to further hone this concept down and advance the legislation next year. His office has explicitly asked for the City's support at this time. The Utilities and Environment Subcommittee evaluated this legislation at their August 31st meeting and recommended support of the bill.

The current version of the bill is attached.

FISCAL/RESOURCE IMPACT: None

Agenda Item # 4

Prepared By:

Program Administrator

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 7, 2005

FINAL MAP APPROVAL FOR ROYAL COURT (TRACT 9629)

RECOMMENDED ACTION(S):

- 1) Approve the final map, subdivision agreement and improvement plans
- 2) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 3) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

EXECUTIVE SUMMARY:

Tract 9629 is a 67 unit development located between Monterey Road and Del Monte Avenue just north of Wright Avenue (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on November 30, 2004.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provisions with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

FISCAL/RESOURCE IMPACT:

Development review for this project is from development processing fees.

Agenda Item # 5

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

CITY POSITIONS ON PROPOSED VTA LONG-TERM TRANSIT CAPITAL INVESTMENT PROGRAM AND POTENTIAL QUARTER-CENT SALES TAX INCREASE

RECOMMENDED ACTION: The Regional Planning and Transportation Council Sub-committee recommends sending a letter to the Valley Transportation Administration responding to correspondence from San Jose Mayor Gonzales and the Silicon Valley Leadership Group and clarifying the City's position on the Long-Term Transit Capital Plan and on the Quarter-Cent Sales Tax Proposal.

EXECUTIVE SUMMARY:

At its August 26, 2005 special meeting, the Council's sub-committee on Long Range Planning and Transportation discussed the VTA's Long-Term Capital Expenditure Plan and the proposed quarter-cent sales tax measure for transportation funding. In particular, two pieces of correspondence relating to these matters from others have been circulated and the sub-committee agreed that the City should respond with a letter of its own to VTA. A response letter has been drafted and is attached. If approved, the Mayor can sign a final draft of the response letter and send it to the VTA Board of Directors.

The Long-Term Transit Capital Investment Program ("Plan") describes VTA's planned improvement projects and capital investments over the next 30 years and is broken into two components: (1) transit improvement projects in the 2000 Measure A Transit Program, and (2) ongoing transit capital investments necessary to support basic transit services.

On March 23, 2005, at its regularly scheduled meeting, the Council heard a report on the Plan from VTA staff. Following that meeting, a letter signed by the Mayor was sent to VTA addressing the proposed Plan and laying out the City's position on certain aspects of the Plan. That letter is attached.

The VTA Board of Directors is still deliberating over the makeup of the Plan before it gets adopted later this year. A June 8, 2005 memorandum from San Jose Mayor Gonzales (attached) has been circulated containing suggestions for the Board to consider before adoption.

In addition, an August 2, 2005 memorandum from Carl Guardino, CEO and president of the Silicon Valley Leadership Group to the VTA Board (attached also) discusses spending priorities for a proposed quarter-cent sales tax measure to fund transportation projects in Santa Clara County. The Long Range Planning and Transportation sub-committee supports a response to that memorandum.

FISCAL IMPACT: There is no fiscal impact with this action.

Agenda Item # 6

Prepared By:

Deputy Director PW

Approved By:

Department Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 7, 2005

Agenda Item # 7

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

AWARD OF WATERWISE DEMONSTRATION GARDENS PROJECT

RECOMMENDED ACTION(S):

1. Appropriate \$30,000 from the current year un-appropriated Water System Replacement Fund balance (653) into the project account (#126005).
2. Award contract to Suarez and Munoz Construction for the construction of the Waterwise Demonstration Gardens project in the amount of \$137,234.
3. Authorize expenditure of construction contingency funds not to exceed \$13,723.

EXECUTIVE SUMMARY:

The scope of the work for this project includes the installation of water efficient landscaping, irrigation, site furnishings, pathways, boulders, and pedestrian bridge per the Plans and Specification documents.

The bid opening was held on August 23, 2005 and the bids received are as listed below. The low bidder has not previously performed work for the City of Morgan Hill; however, we did receive an excellent referral from the City of Pleasanton while performing our standard background check. Staff recommends award of the contract to Suarez and Munoz Construction. This project is scheduled to begin construction in late September and be completed by January 2006. Suarez and Munoz Construction's bid was 1% higher than the engineer's estimate of \$136,000.

| <u>Contractor Name</u> | <u>Base Bid+Alternate A</u> | <u>Base Bid+all Alternates</u> |
|----------------------------------|-----------------------------|--------------------------------|
| Suarez and Munoz Construction | \$130,134 | \$137,234 |
| B & B Landscape Contractors Inc. | \$149,710 | \$160,510 |
| Lone Star Landscape, Inc. | \$152,982 | \$162,882 |

FISCAL/RESOURCE IMPACT: The total contract cost for this project is \$150,957, which includes a 10% contingency of \$13,723. Presently, insufficient funds are budgeted in the current year CIP Program for this project, therefore Staff recommends that an additional \$30,000 be appropriated from the un-appropriated Water System Replacement Fund balance (653) in order to complete the project. The project is funded under CIP project #126005.



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 7, 2005*

APPROVE WATER METER SOLE SOURCE PURCHASE

RECOMMENDED ACTION(S):

1. Approve purchase of water meters, meter parts and MXUs (Radio Transmitters) from Invensys Metering Systems
2. Approve purchase order of \$299,300 to Invensys Metering Systems for the annual supply of water meters, meter parts and MXUs

EXECUTIVE SUMMARY: For Fiscal Year 2005-06 it is staff's recommendation to continue the standardized conversion of our water meter reading and reporting system to radio read technology by making the sole source purchase of both our annual supply of water meters and radio transmitters (MXU's) from Sensus Metering Systems. The financial and practical information provided in the attached January 2005 memorandum remains accurate to date.

The City has now completed a total of 5,400 retrofit water meter conversions to radio read technology. This leaves an additional 6,000 retrofit conversions to be accomplished as our program continues. At a pace of 1000 conversions per year the program will be complete in 2012. For all new development, radio read components are required.

The January 2005 memorandum states that converting our water meter system to radio read technology results in substantial labor time savings. As an example of this savings, the labor time needed to read the water meters in the hillside areas of Jackson Oaks and Woodland has been reduced from 1 week for 2 meter readers to 3 hours for 1 meter reader. This has allowed for increasing maintenance of several other parts of our water system, IE: water valve exercising, fire hydrant maintenance, and meter testing and calibration. With specific regard to water meter testing and calibration, the continued labor time savings resulting from the completion of additional radio read retrofit conversions may help us meet our needs for labor to support our water meter change out program. This program evaluates the accuracy of existing water meters in service thus insuring accurate revenue collection for supply of water and water services to the City's residents.

Section 3.04.120 of the Municipal Code allows the City to purchase brand names or equal specifications when the "Purchasing Officer determines that the use of brand name or equal specification is in the City's best interests". In addition, Section 3.04.150 of the Municipal Code provides that the City Council may approve a purchase where the "Purchasing Officer determines that there is only one source to the required supply or service". The Finance Director has made the above two determinations. Staff recommends continuing to standardize our water meter reading system by continuing to purchase Invensys' meters and radio read component parts.

FISCAL/RESOURCE IMPACT: This purchase is budgeted in the FY 2005-06 Meter Division (650.5720.43897).

Agenda Item # 8

Prepared By:

Deputy Director Public Works/Operations

Approved By:

Department Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 7, 2005

VACATION OF A PORTION OF A PUBLIC SERVICE EASEMENT ON PARCEL A, PER MAP BOOK 771 PAGES 44-45

RECOMMENDED ACTION(S):

1. Adopt Resolution declaring Summary Vacation of a portion of a public service easement on parcel A, per 771 M 44-45.
2. Direct the City Clerk to file a certified copy of the Resolution in the Office of the County Recorder of the County of Santa Clara.

EXECUTIVE SUMMARY:

The developer of the San Vicente Estates subdivision has requested that the City vacate an existing public service easement located on parcel A within the project. The easement was created on the Tract map for the project, commonly known as San Vicente Estates (Tract 9227). The developer subsequently processed a lot line Adjustment which adjusted the lot lines between several lots within the subdivision. The resulting lot line adjustment eliminated the need for the portion of the public service easement described on attached exhibit A and shown in exhibit B. Staff has reviewed this matter with the Civil Engineer who prepared the map and improvement plans for the subdivision and he concurs with staff's conclusion that the easement is not needed.

The portion of the public service easement described in the resolution is not required for present or prospective public use. This vacation is being processed under the Summary Vacation procedure as outlined in the Streets and Highways Code Division 9, Part 3, Chapter 4, Section 8330, et seq. The City Attorney's Office has reviewed the resolution and has found it consistent with the vacation procedures required in the California Streets and Highways Code.

FISCAL IMPACT:

There will be no cost to the City. Public Works has collected the requisite fees from the applicant to prepare and record the various documents.

Agenda Item # 9

Prepared By:

Senior Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL DOCUMENT TO:

CITY OF MORGAN HILL
17555 PEAK AVENUE
MORGAN HILL, CA 95037

RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 27383

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
DECLARING ITS SUMMARY VACATION OF A PORTION OF A PUBLIC
SERVICE EASEMENT ON PARCEL A, PER 771 M 44-45**

WHEREAS, the Director of Public Works of the City of Morgan Hill has recommended that the hereinafter described property presently held for public purposes is unnecessary for present or prospective municipal purposes; now

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that;

SECTION 1: The City Council of the City of Morgan Hill hereby finds from all evidence submitted that the land described in Exhibit 'A' and shown on Exhibit 'B' is unnecessary for present or prospective public service easements, and hereby orders the Summary Vacation of said public service easement in accordance with the provisions of Streets and Highways Code Division 9, Part 3, Chapter 4, Section 8330, et seq.

SECTION 2: From and after the date this Resolution is recorded, the portion of the public service easement described here as vacated will no longer constitute a portion of the public service easement. Said portion of easement encompasses approximately 210 SF.

SECTION 3: The City Clerk is hereby directed to cause a certified copy of this Resolution of Vacation, attested by said Clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment or further proof in the Office of the Recorder of Santa Clara County. No fees shall be charged for recordation.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th Day of September, 2005 by the following vote.

| | |
|-----------------|-------------------------|
| AYES: | COUNCIL MEMBERS: |
| NOES: | COUNCIL MEMBERS: |
| ABSTAIN: | COUNCIL MEMBERS: |
| ABSENT: | COUNCIL MEMBERS: |

🔒 CERTIFICATION 🔒

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,
do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City
Council at a Regular Meeting held on September 7, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

AWARD OF PROFESSIONAL SERVICES CONTRACT TO PREPARE CONSTRUCTION DESIGN AND BIDDING DOCUMENTS FOR COMMUNITY PARK IMPROVEMENTS PHASE I

RECOMMENDED ACTION(S): Authorize the City Manager to Execute a consultant agreement with Bellinger, Foster, Steinmetz Landscape Architecture in the amount of \$114,600 for the preparation of construction design and bidding documents for the Phase I of the Community Park Improvements Project.

EXECUTIVE SUMMARY: Recommended as a part of the Parks and Recreation Programming Master Plan, Phase I of the Community Park Improvements Project is identified in the City's Capital Improvements Program (CIP). The CIP calls for design to be completed and construction begun in Fiscal Year 2005-06 and construction to be completed in Fiscal Year 2006-07.

Staff has received a proposal from Bellinger, Foster, Steinmetz Landscape Architecture (BFS), for design and preparation of construction documents. The scope of work for the project includes: Construction of: 4 new tennis courts and reconstruction and drainage improvements for the 4 existing courts, new concession/restroom building, 2 new group picnic areas, outdoor basketball court with lighting, walking trail adjustments as required by the new construction.

BFS developed the Parks and Recreation Programming Master Plan and the Community Park Master Plan. Staff recommends this firm as highly competent and most knowledgeable regarding the City's intent and purpose for the Community Park Improvements Project. Their scope of work also includes support during the bidding and construction process. The cost of the BFS proposal represents 9% of the total project budget of \$1,175,000.

Attached is a copy of the BFS proposal and the Community Park Master Plan. A project schedule is also attached. The schedule calls for design, bidding, award of contract and a notice to proceed for construction, including city review and coordination time, to be completed by July 2006. Construction can be completed in 7 months, however, a final date for project completion will likely be affected by rain days. Estimated completion is in May 2006.

FISCAL/RESOURCE IMPACT: The 2005-2006 Capital Improvement Program identifies the Community Park Improvements Project #120001 funded by the Park Impact Fund and Proposition 40 Per Capita Grant Program.

Agenda Item # 10

Prepared By:

**Deputy Director of
Public
Works/Operations**

Approved By:

Public Works Director

Submitted By:



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 7, 2005*

APPROVAL OF PROGRAM SUPPLEMENT AGREEMENT NO. 006 FOR FEDERAL-AID PROJECT NO. 04-5152 – DEPOT STREET RECONSTRUCTION PROJECT

RECOMMENDED ACTION(S):

1. Approve the attached program supplemental agreement with Caltrans for the Depot Street Reconstruction Project.
2. Adopt the attached resolution designating the City Manager as the City official authorized to sign the funding agreement.

EXECUTIVE SUMMARY: Staff received a request from Caltrans to approve the attached Program Supplemental Agreement for the Depot Street Reconstruction Project (See Exhibit A). The approval of this agreement will allow the City of Morgan Hill to be reimbursed for the preliminary engineering portion of work.

The Depot Street Reconstruction Project is funded by a Transportation for Livable Communities (TLC) Capital Grant through Metropolitan Transportation Commission (MTC). The scope of the project is to reconstruct Depot Street in conformance with the City's Downtown Plan from Main Avenue to 5th Street. This includes wide, tree-lined sidewalks on the east side of the street; planting strip and sidewalks on the west; bicycle lanes on both sides of the street; pedestrian-scaled street lighting; special paving at street intersections; narrow traffic lanes; median islands approaching 2nd and 3rd Streets; and additional street landscaping; public art and street furniture.

As per the signed finance letter by Caltrans, \$394,217 has been estimated for preliminary engineering for this project. 88.53% of qualified expenditures for preliminary engineering may be reimbursed (up to \$349,000).

Furthermore, the attached resolution will designate the City Manager as the City official authorized to sign for this program supplemental agreement.

FISCAL/RESOURCES IMPACT: There is no fiscal impact with this City Council action, the project is included in this year's Department Work Plan.

Agenda Item #11

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DESIGNATING A CITY OFFICIAL TO EXECUTE PROGRAM SUPPLEMENT AGREEMENT NO. 006 TO ADMINISTER AGENCY-STATE AGREEMENT NO. 04-5152 FOR THE DEPOT STREET RECONSTRUCTION PROJECT

WHEREAS, the City of Morgan Hill is eligible to receive Federal and/or State funding for the Depot Street Reconstruction Project, through the California Department of Transportation; and

WHEREAS, Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements and/or Fund Transfer Agreements need to be executed with the California Department of Transportation before such funds could be claimed; and

WHEREAS, the City wishes to delegate authorization to execute these agreements and any amendments thereto to the City Manager to execute all Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements, Fund Transfer Agreements and any amendments thereto with the California Department of Transportation; now

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that J. Edward Tewes, City Manager, is hereby designated as the City official authorized to execute on behalf of the City of Morgan Hill, a public entity established under the laws of the State of California, Program Supplement Agreement No. 006 to administer Agency-State Agreement No. 04-5152 for the Depot Street Reconstruction Project.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th day of September, 2005 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CERTIFICATION

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. adopted by the City Council at the Regular City Council Meeting of September 7th, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 7, 2005*

REPORT ON DEPOT STREET RECONSTRUCTION NEIGHBORHOOD MEETING

RECOMMENDED ACTION(S): For Information Only.

EXECUTIVE SUMMARY:

The Depot Street Reconstruction Project is funded by a Transportation for Livable Communities (TLC) Capital Grant through Metropolitan Transportation Commission (MTC). The scope of the project is to reconstruct Depot Street in conformance with the City's Downtown Plan from Main Avenue to 5th Street. This includes wide, tree-lined sidewalks on the east side of the street; planting strip and sidewalks on the west; bicycle lanes on both sides of the street; pedestrian-scaled street lighting; special paving at street intersections; narrow traffic lanes; median islands approaching 2nd and 3rd Streets; and additional street landscaping; public art and street furniture.

On July 6, 2005, City Council awarded the professional service contract to BKF Engineers to prepare civil and urban design documents for the Depot Street Reconstruction Project. At the time of the grant application and approval, the attached conceptual drawings met the TLC grant criteria. The actual design will be in substantial conformance with the conceptual drawings and MTC will verify that our plans and specification to be in conformance to the conceptual design at 30%, 60%, 90%, and 100% level.

A meeting was held on August 30th, 2005 with City Staff, BKF Engineers, Gates and Associates. All affected business owners/residents were invited to the meeting to discuss this project. The meeting took place at the Community and Cultural Center, Madrone Room, at 7:00 pm. There were 11 business owners/residents that attended the meeting. During the meeting, Staff, BKF, and Gates and Associates discussed the project's scope of work, conceptual design, and scheduling. At the meeting, there were concerns raised by business owner(s) regarding the existing gravel parking lot between 2nd and 3rd Street and truck parking and access for Hale Lumber.

City Staff indicated to the business owner between 2nd and 3rd Street that an on-site meeting will be set up when plans are completed at the 30% level. The meeting will include the business owners, staff, and BKF Engineers to discuss the options for access and parking. City Staff and BKF Engineer will also review the options for the parking issues at Hale Lumber.

Attached is a copy of the minutes from the meeting.

Staff will hold another neighborhood meeting with business owners and residents at approximately 60% completion of plans and specification. We will again report to the City Council on the result of the meeting.

FISCAL/RESOURCE IMPACT: Project funded and included in Department workplan.

Agenda Item # 12

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2005 QUARTERLY REPORT #2

RECOMMENDED ACTION(S):

Accept and File the RDCS Second Quarter Report for 2005

EXECUTIVE SUMMARY:

In accordance with Section 18.78.150 of the Municipal Code, the Community Development Department is required to review, on a quarterly basis, each proposed development which has received a Residential Development Control System (RDCS) allotment. The purpose of this review is to determine whether satisfactory progress is being made with processing of the appropriate plans with the Community Development Department.

The majority of the residential projects are proceeding according to approved development schedules. The following projects are classified as BEHIND SCHEDULE: Tilton-Glenrock (MP-02-03); Barrett-Odishoo (MP-02-02); DeWitt-Latala (MMP-03-06); and W. Main-Vierra (MMP-03-09).

Tilton-Glenrock is working on their final map submittal. Barrett-Odishoo is on tonight's agenda for a Zoning Amendment and Development Agreement. DeWitt-Latala will be filing for a Development Agreement Amendment to request an extension of time. W. Main-Vierra will be removed from the report once written confirmation of the denial from the court is received and the appeal period has expired.

During the second quarter monitoring period, RDCS projects have secured 65 additional building permits and completed construction of 62 homes.

By a vote of 6-0, the Commission approved the Quarterly Report by minute action and recommended the same by the Council. A copy of the 2nd Quarterly Report for 2005 and the minutes of the July 26, 2005 Planning Commission meeting are attached for the Council's reference.

FISCAL IMPACT:

Preparation of this report was accomplished with monies from the Community Development Fund.

R:\PLANNING\WP51\RDCS\QRPT\2005\2ndQtr.M2C.doc

Agenda Item # 13

Prepared By:

Planning Technician

Approved By:

Kathy Molloy Previsich
Director of Community
Development

Submitted By:

J. Edward Tewes, City
Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item # 14

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1735, NEW SERIES, AS AMENDED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL CC-R, TO PLANNED UNIT DEVELOPMENT PUD, BRINGING THE PARCELS INTO CONFORMANCE WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN (APNs 726-13-032, 033, 034, 041, 042, 043, 044)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1735, New Series, as amended, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On August 3, 2005, the City Council Introduced Ordinance No. 1735, New Series, as amended [*Exhibit A amended per staff recommendation (office commercial to require a conditional use permit, appropriate depth for retail use, and amending the Minimum Ground Floor heading – to read: A minimum of 8,000 square feet.....*”)], by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

None.

ORDINANCE NO. 1735, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL CC-R, TO PLANNED UNIT DEVELOPMENT PUD, BRINGING THE PARCELS INTO CONFORMANCE WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN (APNs 726-13-032, 033, 034, 041, 042, 043, 044)

WHEREAS, such request was considered by the Planning Commission at its regular meeting of December 14, 2004, July 12, 2005 and July 26, 2005, at which time the Planning Commission recommended approval of application ZA-04-14: City of Morgan Hill Downtown Plan (Sunsweet Opportunity Site); and

WHEREAS, testimony received at a duly-noticed City Council public hearing held on August 3, 2005, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES HEREBY ORDAIN:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance, Downtown Plan and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration has been filed, which addressed the actions being taken to implement the Downtown Plan, including this zoning amendment.

SECTION 4. The City Council hereby approved the zoning amendment and adopts a Planned Unit Development (PUD) zoning district designation for the Sunsweet Opportunity Site, defined as APNs 726-13-032, -033, -034, -041, -042, -043, and -044.

SECTION 5. The City Council hereby adopts the PUD zoning district text applicable to the Sunsweet Opportunity Site, consisting of the development standards and design guidelines contained in the attached Exhibit "A", which by this reference is incorporated herein.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced, as amended, at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of August 2005, and was finally adopted at a regular meeting of said Council on the Day of September 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1735, New Series, adopted, as amended, by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of September 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

EXHIBIT A

Planned Unit Development (PUD) zoning: “SUNSWEET OPPORTUNITY SITE”

Area:

The area included within the PUD boundaries includes Assessor Parcel Numbers 726-13-032, 033, 034, 041, 042, 043, and 044.

Objective:

The Sunsweet site is a key opportunity site for implementation of the Downtown Plan. Planning and development of this PUD shall occur in a manner which recognizes its prominent location. Prior to any development within the PUD, a precise development plan shall be approved by the City consistent with the provisions of Municipal Code Chapter 18.30 PUD Planned Unit Development. Development within this PUD shall occur in a manner that complies with the spirit, guidelines and standards contained with Morgan Hill Downtown Plan as amended. As such, the allowable uses, density and maximum height provisions of this PUD shall be considered zoning standards, but the development and design standards of this PUD shall be considered design guidelines, in order to allow for design flexibility and final establishment through the precise development plan and architectural and site review processes.

Permitted uses for parcels within the PUD fronting on Third Street.

The following uses shall be permitted in the PUD for parcels fronting on Third Street:

- A. Retail Stores;
- B. Restaurants;
- C. Financial Services;
- D. Nightclubs, theaters and bars;
- E. Commercial indoor recreation uses 3,000 sq. ft. or less in area;
- F. Entries to second and third floor spaces;

Conditional uses for parcels within the PUD fronting on Third Street.

The following uses may be conditionally allowed in the PUD on parcels fronting on Third Street, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title:

- A. Ground floor frontage space in a development project (exclusive of the frontage of APN 726-13-041), for office or personal service uses.

Permitted uses for second story or above locations for parcels fronting on Third Street.

The following uses in the PUD district shall be permitted in second story (or above) locations for parcels fronting on Third Street:

- A. Single-family attached, duplex and multifamily dwellings;
- B. Personal Services;
- C. Offices;
- D. Small Family Day Care.

Conditional uses for second story or above location for parcels fronting on Third Street:

The following uses in the PUD district shall be conditional in second story (or above) locations for parcels fronting on Third Street:

- A. Medical Offices
- B. Schools

Permitted uses for parcels not fronting on Third Street:

The following uses in the PUD shall be permitted for parcels not fronting on Third Street:

- A. Single-family attached, duplex and multifamily dwellings.

Residential Development Density: Density shall be a minimum of 25 units per net acre and a maximum of 40 dwelling units per net acre for area included in a development project, with density calculated on the area of the PUD that does not include APNs 726-13-041 and 726-13-034 and areas designated for public parking.

Maximum Height: 48 feet.

Minimum Ground Floor Frontage Commercial/Non-Residential Square Footage :

A minimum of 8,000 square feet of ground floor frontage leasable area shall be provided along the Third Street frontage of the PUD, excluding the frontage of APN 726-13-041.

Development Guidelines for Third Street Frontage:

Building Design

- A. It is encouraged that ground floor leasable commercial space along the Third Street frontage exceed the PUD zoning minimum of 8,000 square feet. The depth of the leasable commercial spaces along the Third Street frontage must be appropriate for accommodating retail uses.

- B. Ground floor development along Third Street should be designed to accommodate retail and restaurant uses, with transparent storefront façades, relationship to outdoor seating, high ceilings, and pedestrian-friendly design strongly encouraged.
- C. Development facing onto Third Street should be a minimum of two stories in height. If a third story is provided along this frontage it should be carefully designed to achieve an appropriate transition and relationship to neighboring uses, such as by stepping back the third story, alternating wall planes, placing balconies to present a human scale, and/or using a roof type that provides desired scale and massing.
- D. Development facing onto Third Street should be at a zero front setback adjacent to the Third Street promenade.
- E. Development along Third Street is encouraged to provide a continuous façade with a consistent level of architectural design.
- F. Only one vehicle entrance to parking area should be allowed on Third Street.
- G. Pedestrian access should be designed between parking lot areas and Third Street.

Development Guidelines for Depot Street Frontage:

Building Design:

- A. Development facing onto to Depot Street should be a maximum of three stories in height (48 feet).
- B. Development facing onto Depot Street should be set back an average of 5 feet to the property line, to achieve a pedestrian-friendly and interesting streetscape, with a strong relationship to Depot Street.
- C. Development facing onto Depot Street should have entrances oriented to the street.

Development Guidelines for the Fourth Street Frontage:

Building Design:

- A. Development facing onto Fourth Street should be a maximum of two and one-half stories in height.
- B. Development facing onto Fourth Street should be set back a minimum of 15 feet, to achieve compatibility with development on the south side of Fourth Street.
- C. Development facing onto Fourth Street should have entrances oriented to the street.

General Design Guidelines:

The following standards provide guidance throughout the PUD.

- A. Blank walls greater than ten feet in length should be avoided.

- B. Bay windows and balconies may encroach into the public right-of-way up to three feet along approximately twenty-five percent of the street frontage.
- C. Entries should be distinctive and well-defined, with elements such as attractive doorways and sidelights, awnings, carriage lights, planters with flowers, and appropriate signage.
- D. Second stories or above should be designed with a distinctive character and design elements such as bay windows, projecting balconies with landscaping and French doors, and awnings over windows.
- E. Window proportions on upper levels are encouraged to be generally smaller than ground floor windows, and vertical in proportion.
- F. Window types and proportions should be complementary to the architecture and design of the façade.
- G. Operable windows within restaurant facades are highly encouraged.
- H. Ground floor windows should generally reflect traditional store front windows, with proportions that are horizontal or approximately square.
- I. Tinted or reflective window glass should be avoided.
- J. Building designs consistent with this section of this PUD as determined through architectural and site approval shall be deemed consistent with the Downtown Plan.

Parking and Circulation Guidelines:

- A. A parking lot for public use should be designed on the western portion of the PUD behind parcels fronting on Monterey Road.
- B. Major parking lot entrances should be oriented to Depot Street.
- C. Minor parking lot entrances should be oriented to Fourth Street.
- D. Only one vehicle entrance to parking area should be allowed on Third Street.
- E. Pedestrian access should be provided between parking lot areas and Third Street.
- F. Parking for residential development within the PUD should be consistent with Chapter 18.50 of the Municipal Code.
- G. Parking required for commercial development should be consistent with Chapter 18.50 of the Municipal Code.
- H. Vehicular and pedestrian easements should be established between all parcels within the PUD.



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item # 15

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1736, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 1.01.010 G OF CHAPTER 1.01 (CODE ADOPTION) OF TITLE 1 (GENERAL PROVISIONS), AMENDING SECTION 15.12.020 (ADOPTION OF THE CALIFORNIA ELECTRICAL CODE) AND ADDING SECTION 15.12.040 (ADDING CALIFORNIA ELECTRICAL CODE ARTICLE 334.12 REGARDING NON-METALLIC-SHEATHED CABLES) TO THE MORGAN HILL MUNICIPAL CODE TO INCLUDE THE CURRENT EDITION OF THE CALIFORNIA ELECTRICAL CODE.

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1736, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

At a Special Meeting on August 24, 2005, the City Council Introduced Ordinance No. 1736, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1736, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 1.01.010 G OF CHAPTER 1.01 (CODE ADOPTION) OF TITLE 1 (GENERAL PROVISIONS), AMENDING SECTION 15.12.020 (ADOPTION OF THE CALIFORNIA ELECTRICAL CODE) AND ADDING SECTION 15.12.040 (ADDING CALIFORNIA ELECTRICAL CODE ARTICLE 334.12 REGARDING NON-METALLIC-SHEATHED CABLES) TO THE MORGAN HILL MUNICIPAL CODE TO INCLUDE THE CURRENT EDITION OF THE CALIFORNIA ELECTRICAL CODE.

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of regulations imposing the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and

WHEREAS, the City Council finds that the adoption of such provisions is necessary to enact a systematic method for regulation of the topics addressed in said uniform industry codes, and to foster the health, safety and welfare of the citizens of Morgan Hill; and

WHEREAS, a Public Hearing concerning these amendments was properly noticed and held; and

WHEREAS, the City of Morgan Hill desires to adopt the 2004 California Electrical Code.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 1.01.010 G of Chapter 1.01 (Code Adoption) of Title 1 (General Provisions) of the Morgan Hill Municipal Code is hereby amended to read as follows:

G. "National Electrical Code, ~~1999~~ **2002** Edition," "California Electrical Code ~~2001~~ **2004** Edition," promulgated by the National Fire Protection Association;

SECTION 2. Section 15.12.020 (Adoption of the California Electrical Code) of Chapter 15.12 (Electrical Code) of Title 15 (Buildings and Construction) is hereby amended to read as follows:

“Section 15.12.020 Adoption of the California Electrical Code. Pursuant to Sections 50022.1 through 50022.4, inclusive, of the Government Code of the State of California, the text of that certain publication copyrighted and published by the National Fire Protection Association entitled "California Electrical Code, ~~2001~~ **2004** Edition," is hereby adopted as the rules, regulations and standards within this city as to all matters therein contained, except as otherwise provided in this chapter. One copy of the California Electrical Code, ~~2001~~ **2004** Edition, shall at all times be kept on file in the office of the city clerk and be available for public inspection.”

SECTION 3. Is hereby added to Chapter 15.12 of the Morgan Hill Municipal Code Section 15.12.040, which shall read as follows:

“Section 15.12.040 Additions, Amendments and Deletions.

A. Article 334.12 of the California Electrical Code shall be added and amended as follows:

Article 334.12 Non-Metallic-Sheathed Cables.

(a) Type NM or NMC. Type NM and NMC cables shall not be used: (1) in any dwelling or structure exceeding three floors above grade; (2) as service-entrance cable; (3) embedded in poured concrete; or (4) in any non-residential occupancy. For the purpose of this article, the first floor of the building shall be that floor that has 50 percent or more of the exterior wall surface area level with or above finish grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage, or similar use shall be permitted.

SECTION 4. Findings. The changes or modifications in the requirements of the National Electrical Code, 2002 edition, as set out in this section, are necessary because Morgan Hill is located in a seismic Zone 4. This is the highest classification for seismic activity. Morgan Hill has had major earthquakes in 1984 and in 1989 which caused major damage to commercial structures. Nonmetallic-sheathed cable is not afforded the same protection from damage as wiring in raceways. Damage to Nonmetallic-sheathed cable could occur in a seismic event which increases the potential for a fire.”

SECTION 5. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 6. California Environmental Quality Act (CEQA) Compliance. Pursuant to CEQA Guideline Section 15061(b)(3), this Ordinance is exempt from the provisions of the CEQA, as it does not have a potential for causing a significant effect on the environment. This action is further exempt under the definition of Project in Section 15378(b)(3) in that it concerns general policy and procedure making.

SECTION 7. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this Ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the special meeting of the City Council of the City of Morgan Hill held on the 24th Day of August 2005, and was finally adopted at a regular meeting of said Council on the 7th Day of September 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1736, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 7th Day of September 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

**CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT AGENCY
AND SPECIAL CITY COUNCIL MEETING
MINUTES – AUGUST 24, 2005**

CALL TO ORDER

Chairman/Mayor Kennedy called the special meeting to order at 7:03 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Grzan, Sellers, Tate and Chairperson/Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS

Mayor Kennedy and Mayor Pro Tempore Tate presented Certificates of Recognition to outstanding high school athletes, acknowledging their exceptional performances in local sports as follows: Andrew Cummins, Ronni Gautschi, Ryan Gautschi, Laura Melroy, Dustin Muhn, Doug Porras, and Katie Renteria. Cobbie Jones, Chelsea Laning, Lena Marsh, Michelle McDonald, Brandon Powell, Shaun Standridge and Billy Wong were not in attendance to receive their certificates.

CITY COUNCIL SUBCOMMITTEE REPORT

Council Member Carr reported that the Public Safety & Community Services Committee met this evening and has requested that staff return in September to update the entire Council regarding the status of discussions between the two sports groups on the operation and maintenance of the outdoor sports complex. He noted that the Council requested that by October 2005 that these two groups agree on one proposal for the operation and maintenance of the sports complex. He indicated that the Parks & Recreation Commission is working with the two groups to this end.

Council Member Sellers indicated that the Council's Community & Economic Development Committee is reviewing the bio tech incubator project and will return to the Council with a report.

OTHER REPORTS

City Treasurer Roorda presented the Financial Policy Committee Quarterly Report. He stated that this is a timely update as the City concluded a fiscal year approximately a month ago. He said that the final results for the fiscal year have yet to be audited. It was his hope that the fiscal year end results will not

change much, if at all. He stated that the City's revenues have been limited in terms of growth over the last several years; but that this is a year where the City is seeing changes in growth. He noted that there is a substantial increase in the City's sales tax revenue base, and felt that the City was making excellent progress moving forward. He indicated that there has been a lot of activity in shifting funds at the State level between property taxes and vehicle in lieu fees. Although the City saw some strength in the property tax a couple of years ago, they were flat to a downward spiral. However, they are showing good growth. He said that hotel taxes were once thought to be a strong growth area for the City, especially with more hotels being constructed. With the downturn in the economy and lack of use of hotel space, the revenues expected did not result. It is the Financial Policy Committee's hope that the Transient Occupancy Tax (TOT) will continue to contribute a significant amount to the City's diverse revenue sources.

City Treasurer Roorda stated that the City continues in transition and expenses. The City saw substantial growth over the last year, and was within budget parameters. He said that there were some adjustments made for items not planned. He said that there have been increases in expenses associated with the new police facility in terms of operating expenses and other areas. He said that the fire area grew; noting that the City has a new contract with the Santa Clara County Fire Department for the provision of fire service protection. He did not believe that there would be a wide variation in costs for the next few years. He indicated that there have been some increases on the administrative side; in particular with legal costs. It is the hope that these are one time occurrences and that the costs will lessen in years to come. He noted that the aquatics center contributed approximately \$400,000 to the City's deficit due to increase in expenses. He informed the Council and public that the City has an adequate general fund balance of \$9.2 million. Although this amount is down from where the City was last year, the general fund reserve is still substantial for a city of this size. He stated that City staff understood the projected deficit; noting that the City has a five year budget strategy in place. He said that it is understood that the terms of the five year plan are such that the City will not have revenues matching expenses. He indicated that the Financial Policy Committee is working to address this issue and that additional information will come out as the Committee works on the five year plan.

Council Member Sellers stated that he has always appreciated the simplicity, in the positive sense, of the reports presented by City Treasurer Roorda and thanked him for the reports. He recommended that City Treasurer Roorda work with City staff and local media outlets to provide a wider distribution of his comments so that the public might be better informed. He said that it is difficult, as the Council goes through the budget process, to stop and address the bigger financial picture.

City Treasurer Roorda indicated that as the City Treasurer, he would like to make himself available to these kinds of outlets and communicate the City's financial position as widely as possible. He said that the Financial Policy Committee will be looking at ways to have a conversation with the broader community; setting the base line of where the City is today and where the City sees itself going so that individuals can make good decisions for the future and governance of Morgan Hill.

Mayor Kennedy requested that citizens shop locally in order to retain tax dollars in Morgan Hill to pay for police officers, fire fighters, recreation programs and other city services that are otherwise going to other cities.

PUBLIC COMMENT

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

Redevelopment Agency Action

CONSENT CALENDAR:

Chairman Kennedy noted that there are individuals in the audience who wish to address the Agency Board regarding Consent Calendar Item 1.

1. LOAN PROGRAM FOR RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDACS) FOR THE DOWNTOWN SETASIDE

Director of Business Assistance and Housing Services Toy presented the staff report, indicating that the item before the Agency Board is a loan program for the downtown RDACS set aside category. He indicated that in July 2005, the City Council's Community & Economic Development Committee came to the Council with a recommendation for the creation of a loan program. The rationale for the creation of this program is to encourage developers to apply for downtown Measure C allocations, and assist with the financial costs associated with certain application fees and development costs. It was felt that these costs could be a barrier to individuals applying for downtown building allotments. Therefore, it is felt that a loan program would encourage more individuals to apply for downtown allocations. He indicated that the Community & Economic Development Committee and staff developed program guidelines, and is now reporting back to the Agency Board with the recommended program guidelines.

Chairman Kennedy opened the floor to public comment.

Charles Weston addressed the request made by he and Manou Mobedshahi to receive reimbursement for the fees spent in last year's competition. He felt that he entered into a competition that was held to receive allotments for that year. He said that he and Mr. Mobedshahi had several conversations with Planning Manager Rowe and acknowledged that the applications would be scored low before submitting the applications. However, they did not believe that they would score as low as they did; being scored substantially lower than the passing score. He said that through conversations with staff, they were led to believe that there would be recommendations later in April and May of the following year that they could achieve the necessary points or a grant to continue with the Measure C process. He said that since then his wife and a few planning commission members have spent 40-50 hours working on the process and got to the point where the project can score better. In order to test the water again, he has submitted a proposal two months in advance of the filing deadline in order to receive a preliminary scoring of the project; noting that the project review fee is \$4,000. He requested the Council reconsider the denial of the prior Measure C submittal application.

Vice-chair Tate did not understand how the request relates to this agenda item.

Agency Member Sellers said that the request before the Council contains two components: the loan portion for this year's Measure C competition, and the denial of the request for reimbursement for the prior Measure C competition by the Community & Economic Development Committee.

Mr. Toy said that one of the guidelines contained in the report includes the consideration of providing a credit or reimbursement for an application submitted last year. He informed the Agency Board that the Community & Economic Development Committee considered several aspects of the request: staff time spent on the review of the application and fees to pay for staff time. He said that the applicant can reuse some of the information previously prepared for this year's competition; and that while the scoring criteria has been modified since last year, the project could have scored higher; but the applicants chose not to in some categories. He stated that the Community & Economic Development Committee did not support granting a credit or reimbursement, and are recommending that the Agency Board proceed with the guidelines as described in the staff report.

Manou Mobedshahi supported the comments as expressed by Mr. Weston. He said that it was their hope that last year's applications would fit into the program and that it may have been a premature application. He felt that they have demonstrated that they are willing and interested in submitting a Measure C application. He confirmed that he would be submitting a Measure C application again this year. He stated that he was not requesting a refund, but felt that it would be a good faith gesture for the City to grant a credit for the fees paid last year.

Mr. Weston felt that there was a disagreement with staff's statement that the project could have scored enough points had they wanted to. It was his belief that the statement came from a Planning Commissioner. As a developer, he did not believe that he could have scored enough points to make this project work.

Agency Member Sellers clarified that the Community & Economic Development Committee are recommending that the City implement a program this year that would allow individuals considering a project in the downtown to submit their application fees via a loan program. A developer would then be able to reimburse the City when their projects are approved. He noted that there are several small projects in the downtown and that it would result in a significant cost to submit Measure C applications (e.g., up to \$30,000). This was viewed as a significant barrier. The committee considered whether or not to allow applicants from previous years who were denied allotments and were applying again this year to receive reimbursement. Based on the considerations raised by staff and Mr. Weston, he stated the Committee could reconsider the request should the Agency Board so direct. He informed the Agency Board that the Committee had a concern that approval of the request may open the City to other applications in the downtown, or otherwise, who may have concerns or other questions. He concurred with Mr. Weston's comment that had he not applied last year and realized the futility of his efforts, the City would not be in the positive position it is today. Because Mr. Weston and Mr. Mobedshahi were guinea pigs and went through the process, he felt the City would end up with a much better process.

Chairman Kennedy inquired how much is being requested as a credit.

Mr. Toy said that it was his belief Mr. Weston is requesting reimbursement of application fees that totaled approximately \$9,000 last year. However, he did not know whether Mr. Weston was requesting application fees plus out of pocket expenses to prepare the application.

Mr. Weston clarified that he was seeking reimbursement of application fees in the amount of \$9,000. He said that when Measure P was changed to Measure C, it included a category for downtown projects. One of the components for downtown projects is multi family mixed use. He said that his and Mr. Mobedshahi were the only two projects that applied for allotments under this category. Almost under every category, the project received 0-3 points because the criteria was not set up to score a high density mixed use downtown project. He indicated that a lot of components did not apply to attain points such as the Parks & Paths and Circulation Efficiency categories because the lots were small and cramped. Therefore, the category point system did not suit their ability to score well in the present system. He clarified that the scoring criteria remained the same throughout the entire year. After the year was over, there was a change in the scoring system. It was his belief that these two projects and others would score the minimum points required (160 points). He indicated that these two projects only scored approximately 110 points because the projects were scored 0-3 points under some categories. He felt that with the revisions incorporated into the scoring criteria, the projects would score better. He stated that he spent \$9,000 to find this out and that he would be a guinea pig again, but not so significantly this time around. He would be able to see how the City will score the project so that he can adjust the project to achieve a better overall project score. He indicated that he and Mr. Mobedshahi proceeded with the submittal of an application because they were conjecturing what would happen. He felt that both applications for multi family projects were submitted prematurely. By the submittal of their application, it was felt that the system would reward them for their efforts.

Mr. Toy clarified that these were the only two applications that were submitted for downtown allocations.

Agency Member Sellers reiterated that the Community & Economic Development Committee would be willing to reconsider the request in light of this evening's discussion. He noted that the applicants were not in attendance at the committee meeting. He felt that it would be important to structure a policy that does not leave the City vulnerable to similar issues in the future.

Action: *Agency Member Grzan made a motion, seconded by Chairman Kennedy, to request that the Community & Economic Development Committee reconsider Mr. Weston and Mr. Mobedshahi's request.*

Agency Member Carr requested that the motion clarify that the Agency Board would be moving forward with the loan program as there are individuals wishing to apply by the October 2005 deadline. Therefore, the Agency Board needs to move the loan program forward regardless of the decision on the request by Mr. Weston and Mr. Mobedshahi.

Action: *On a motion by Agency Member Grzan and seconded by Chairman Kennedy, the Agency Board unanimously (5-0) clarified the motion as follows: 1) **Approved** the Program Guidelines; 2) **Authorized** the Executive Director to do Everything Necessary and*

*Appropriate to Establish and Implement the Program, Including the Preparation and Execution of Loan Documents; and 3) **Requested** the Community & Economic Development Committee to give further consideration to the request made by Mr. Weston and Mr. Mobedshahi.*

City Council Action

CONSENT CALENDAR:

Council Member Grzan requested that item 9 be removed from the Consent Calendar.

Interim City Attorney Siegel informed the Council that it was his understanding that Consent Calendar Item 7 would be continued to the Council's September 7 meeting.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 2-6, 8, and 10-16 as follows:*

2. **INDOOR RECREATION CENTER PROJECT – JULY CONSTRUCTION PROGRESS REPORT**

Action: ***Information** Only.*

3. **APPOINTMENT OF COMMUNITY CONVERSATION CONSULTANT**

Action: *1) **Authorized** the City Manager to Execute an Agreement with Viewpoint Learning Inc. for Community Conversation Public Engagement Services for a Maximum Cost of \$74,500; Subject to Interim City Attorney Review of the Form of Agreement; and 2) **Increased** General Fund Appropriations by \$25,000 for other Community Conversation Services and Expenses.*

4. **APPOINTMENT OF EXECUTIVE SEARCH FIRM FOR CITY ATTORNEY RECRUITMENT**

Action: ***Authorized** the City Manager to Execute an Agreement with Bob Murray & Associates for City Attorney Recruitment Services for a Maximum Cost of \$24,400; Subject to Interim City Attorney Review of the Form of Agreement.*

5. **CAPITAL IMPROVEMENT PROGRAM FUNDING FOR REGIONAL SOCCER COMPLEX**

Action: ***Received** Recommendation from the Library, Culture & Arts Commission; and Letter from Chairperson Anderson Stating that the CIP Funds Designated for Assisting Construction of a Regional Soccer Complex at Sobrato High School be reallocated to the Library Project.*

6. **COMMUNITY PARK IMPROVEMENTS – RESOLUTION SUPPORTING A GRANT FUNDING APPLICATION FOR THE PER CAPITA GRANT PROGRAM UNDER THE STATE CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 – Resolution No. 5938**

Action: **Adopted** Resolution No. 5938, Approving the Filing of an Application for Local Assistance Funds from the Per Capita Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.

8. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9396, COYOTE CREEK ESTATES – Resolution No. 5939**

Action: 1) **Adopted** Resolution No. 5939, Accepting the Subdivision Improvements Included in Tract 9396, Commonly Known as Coyote Creek Estates; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

10. **PUBLIC WORKS MAINTENANCE AGREEMENT FOR EMERGENCY PUMP MAINTENANCE AND REPAIRS FOR BOOSTER STATIONS FOR FISCAL YEARS 2005-2006 AND 2006-2007**

Action: 1) **Approved** New Maintenance Agreement for Emergency Pump Maintenance and Repairs for Booster Stations; and 2) **Authorized** the City Manager to Execute the Agreement on Behalf of the City.

11. **ACCEPTANCE OF THE SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) TELEMETRY REPLACEMENT PROJECT**

Action: 1) **Accepted** as Complete the SCADA Telemetry Replacement Project (PN 606093) in the Final Amount of \$994,898; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

12. **MEMBERSHIP IN SILICON VALLEY HIGH-SPEED RAIL COALITION**

Action: 1) **Approved** the Regional Planning and Transportation Sub-Committee Recommendation that the City of Morgan Hill Join the Silicon Valley High-Speed Rail Coalition; and 2) **Authorized** the Mayor to Support the Silicon Valley High-Speed Rail Coalition.

13. **APPROVAL OF IMPROVEMENT AGREEMENT FOR LUSAMERICA**

Action: 1) **Approved** the Improvement Agreement; and 2) **Authorized** the City Manager to Sign the Agreement on Behalf of the City with Frederico Enterprises I, LLC.

14. **AWARD MONTEREY ROAD BIKE DETECTION INSTALLATION PROJECT**

Action: 1) **Awarded** Contract to Beltramo Electric, Inc. for the Installation of the Monterey Road Bicycle Detection Project in the Amount of \$36,455; and 2) **Authorized** Expenditure of Construction Contingency Funds, Not to Exceed \$3,645.

15. **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP**

Action: **Authorized** the City Manager to Execute a Second Amended Agreement with the Law Firm of Jorgenson, Siegel, McClure and Flegel, LLP.

16. **LOCAL HAZARD MITIGATION PLAN STRATEGIES**

Action: **Reviewed** the Pre-Disaster Mitigation Strategies for Information Purposes as Required

by the Disaster Mitigation Act of 2000 and the Association of Bay Area Governments.

7. **WATER METER SOLE SOURCE PURCHASE**

Action: **Took** No Action. *(This item to be reagendaized for the Council's September 7, 2005 meeting.)*

9. **REIMBURSEMENT FOR PUBLIC IMPROVEMENTS BY COYOTE CREEK ESTATES (TRACT 9396)**

Council Member Grzan noted that the City commenced this project and that additional costs were incurred.

Director of Public Works Ashcraft indicated that the City began the project and that during construction; staff found efficiencies that could be made to the overall public street improvement project by extending what the developer was required to do. He indicated that the developer has concluded the additional work. Therefore, staff recommends that the developer be reimbursed from the Measure C Capital Improvement Program (CIP) fund.

Council Member Grzan inquired as to reimbursement guarantees made to the developer, if any.

Mr. Ashcraft informed the Council that no guarantees for reimbursements were made, but that the developer was advised that staff would recommend reimbursement to the Council. He clarified that the Council is under no obligation to reimburse the developer, however, in fairness, staff believes that the developer should be reimbursed from the Measure C CIP funds. He informed the Council that typically, staff recommends Council approval of a subdivision improvement agreement, and recommends a reimbursement agreement. Typically, work is designed and is ready to proceed. However, this is one of those cases where during construction it became evident that storm drain problems could be solved. Had staff delayed the approval for reimbursement by bringing the recommendation to the City Council, the developer would have incurred additional costs or stand down from the job instead of proceeding. This was the reason the reimbursement request was not brought before the Council, initially. He said that typically, the Council approves reimbursements, upfront, as design issues are known upfront. He said that there may be couple of times during the year that staff will bring a reimbursement request to the Council after the fact. Typically, staff brings 6-8 pre reimbursement requests to the Council as the improvements have been designed before the subdivision moves forward. There are times that staff finds efficiencies can be made during construction where the City can make a big impact and not spend a lot of money. He said that improvements were made to curb, gutter, sidewalk, drainage, and some undergrounding of utilities. He stated that the 210 feet of improvements made a big improvement to this specific area.

Action: *On a motion by Council Member Carr and seconded by Council Member Grzan, the City Council unanimously (5-0): 1) **Approved** Appropriation of \$59,066 from Current Year Unappropriated Public Facility/Non-AB 1600 (346) Fund to fund this Reimbursement; and 2) **Authorized** Reimbursement of \$59,066 for Installation of Off-Site Improvements by 5M Development LLC.*

Redevelopment Agency and City Council Action

CONSENT CALENDAR:

Action: *On a motion by Vice-chair/Mayor Pro Tempore Tate and seconded by Agency/Council Member Sellers, the Agency Board/City Council unanimously (5-0) **Approved** Consent Calendar Items 17-19 as follows:*

17. **POLICY REGARDING THE SELECTION OF VICE-CHAIR TO THE REDEVELOPMENT AGENCY**

Action: **Amended** *City Council Policy to stipulate that the Mayor Pro Tempore, who is Appointed on an Annual Rotation Basis, is also to Serve as Vice-Chair to the Redevelopment Agency.*

18. **JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF JULY 27, 2005**

Action: **Approved** *the minutes as submitted.*

19. **JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF AUGUST 3, 2005**

Action: **Approved** *the minutes as submitted.*

Redevelopment Agency Action (Continued)

CONSENT CALENDAR:

Action: *On a motion by Vice-chair Tate and seconded by Agency Member Sellers, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 20 as follows:*

20. **JULY 2005 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT**

Action: **Accepted** and **Filed** *Report.*

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 21 and 22 as follows:*

21. **JULY 2005 CITY FINANCE & INVESTMENT REPORT**

Action: **Accepted** and **Filed** *Report.*

22. JULY 2005 FINAL FINANCE & INVESTMENT REPORT

Action: Accepted and Filed Report.

City Council Action

PUBLIC HEARINGS:

23. FIRE INSPECTION AND PLAN REVIEW FEES – *Resolution No. 5940*

Finance Director Dilles indicated that during the budget hearings, staff informed the Council that staff included, in the proposed fiscal year 2005-06 budget, some revenues for fire inspections and plan review fees. Staff did so realizing that the Council had not yet considered these fees, but that staff felt that it would be prudent to include the fees as part of the City's revenue sources for the general fund this fiscal year. He said that it is important for the City to recover its costs with a fee structure, wherever possible. He stated that these fees are a step in that direction; noting that it is the Council's general policy to recover 100% of costs for most City services. He indicated that staff has been working with the Santa Clara County Fire Department over the last several months. He noted that Deputy Fire Chief Dirk Mattern was in attendance, should the Council have any questions. He said that the County Fire Department helped estimate that there would be 937 physical inspections to be held each year and approximately 443 self inspections. It is staff's belief that the proposed \$210 fee is reasonable for annual inspections compared to other jurisdictions. He informed the Council that staff advised the Chamber of Commerce of the proposed fees and that they wanted to know the impact of the fees on certain annual events; specifically Fourth of July, Taste of Morgan Hill, and Mushroom Mardi Gras events. Staff looked at the proposed fee schedule; indicating that it would show that fire inspection fees would be charged. He stated that the budget assumes that these fees would be received this fiscal year. He informed the Council that a replacement Exhibit A was distributed to the Council this evening relating to the proposed fee schedule. He clarified that the replacement page does not change the fees; only changes the descriptions.

Mayor Kennedy inquired how the City would be assured that the self inspections are done properly and meets the criteria requested.

Dirk Mattern, Santa Clara County Fire Department, stated that the self inspection program gives business owners 30 days to respond. If business owners do not respond to the self inspection, fire staff will contact them. He indicated that this is a three year cycle and that every third year, businesses would receive a physical inspection. Self inspections could occur in the other two years. He clarified that self inspections are authorized for very low risk occupancies that have a proven track record of having good compliance.

Council Member Sellers appreciated the staff report outlining the details. He noted that the hazardous materials facility inspection permit fees went down.

Mr. Dilles said that staff looked at the current fees being charged. He stated that the new fees were based entirely on the number of hours it would take, multiplied with the hourly rate; adding County overhead, to come up with the fee recommendation.

Mayor Kennedy indicated that fees are based on actual costs, not arbitrary costs, and that there is a direct connection to what it costs to perform the inspections.

Council Member Sellers appreciated that this item was forwarded to the Chamber of Commerce for their consideration. He stated that the tent/canopy fee and the fire fees are appropriate based on the time it takes to inspect. However, he had no doubt that the inspection fees would impact fees. He inquired whether IDI was directly contacted or are cognizant to the proposed fees; incorporating these fees into their budgeting. He would like to avoid any last minute requests for funding because an agency did not realize that fire inspections fees would be required.

Mr. Dilles responded that staff did not notify IDI about the fees, but would agree to do so. He clarified that the FY 2005-06 budget includes \$340,000 in estimated revenues. It is projected that that \$301,000 in revenues would be collected. However, in the partial year remaining, staff believes that the City would only bring in \$254,000. Therefore, \$86,000 is the difference between the \$340,000 contained in the budget document and that the \$254,000 that is being estimated for the fiscal year.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Mayor Kennedy thanked City staff and Fire Department staff for bringing this matter to the Council's attention; the fact that the City was not adequately covering its costs.

Action: *On a motion by Council Member Sellers and seconded by Council Member Grzan, the City Council unanimously (5-0) **Adopted** Resolution No. 5940, Revising Fire Inspection and Plan Review Fees.*

24. AMENDMENT OF MUNICIPAL CODE REGARDING ADOPTION OF THE 2004 CALIFORNIA ELECTRICAL CODE – Ordinance No. 1736, New Series

Chief Building Official Ford presented the staff report on the request to adopt the 2004 California Electrical Code. He informed the Council that the building division staff held a special workshop with the development community; indicating that none of the local builders or developers objected to the proposed amendments.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1736, New Series.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1736, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 1.01.010 G OF CHAPTER 1.01 (CODE ADOPTION) OF TITLE 1 (GENERAL PROVISIONS), AMENDING SECTION 15.12.020 (ADOPTION OF THE CALIFORNIA ELECTRICAL CODE) AND ADDING SECTION 15.12.040 (ADDING CALIFORNIA ELECTRICAL CODE ARTICLE 334.12 REGARDING NON-METALLIC-SHEATHED CABLES) TO THE MORGAN HILL MUNICIPAL CODE TO INCLUDE THE CURRENT EDITION OF THE CALIFORNIA ELECTRICAL CODE**, by the following roll call vote: **AYES:** Carr, Grzan, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

City Council Action

OTHER BUSINESS:

25. STATUS REPORT ON MORGAN HILL AQUATIC FOUNDATION

Mayor Kennedy indicated that several Council members requested that this item be brought forward. He stated that the City Manager sent a letter to the president of the Morgan Hill Aquatics Foundation (Foundation), Geno Acevedo, asking that specific questions be answered.

Mayor Kennedy opened the floor to public comment.

Geno Acevedo said that after receiving a letter from City Manager Tewes, it was his understanding that there would be a roundtable discussion about the concerns. It was his interpretation that he was to be prepared to answer questions. However, after some e-mail discussions with City Manager Tewes today, it was suggested that he put some answers in writing. He indicated that he prepared responses to questions that have been forwarded to the Council. He informed the Council that he did not prepare a presentation as he felt he was clear in his responses. He stated that he and Board of Directors were in attendance and available to respond to Council concerns.

Mayor Pro Tempore Tate indicated that he has not had an opportunity to review the Foundation's response.

Mr. Acevedo said that it was his understanding that there is a concern that the bylaws were recently amended. He clarified that the Foundation originally organized to be a clearinghouse to solicit donations in order to open the aquatics center facility. Over time, the Redevelopment Agency Board decided to fully fund the facility. Therefore, as the facility evolved and the maintenance and operations of the facility evolved, the Foundation Board decided it was time to update the bylaws to reflect the current situation.

Council Member Grzan inquired whether the aquatics facility was constructed to the Foundation's satisfaction; noting that it is being indicated that there are some things that still need to be completed in order to function financially (e.g., lane lines, score board, bleachers, etc.).

Mr. Acevedo said that it was original envisioned to have concrete bleachers on at least one flanking side, the north side, to block the wind and provide storage underneath the bleachers. He noted that this was value engineered out of the project early on as it was an expensive structure to build. He informed the Council that temporary bleachers were installed on the team lawns on either side of the competition pool and that a wind screen was added. He said that the temporary bleachers accommodated approximately 1,000 individuals. In time, the Foundation would like to have these bleachers installed permanently to accommodate swim and major events. He said that a score board and bleachers are needed in order to make the facility fully functionally as originally envisioned. The vision is to be able to host local, regional and national competitions.

Council Member Grzan noted that it has been stated that the aquatics center lost \$358,000 and that there is a new number in losses identified at \$400,000. He inquired how the Foundation can play a role in reducing some of the City's costs.

Mr. Acevedo said that the Foundation Board has not been provided with details of expenses, profit loss statements, or balance sheets. He stated that the Foundation Board would like the opportunity to look at the numbers and help balance the budget; assisting with the marketing and revenue side of the facility. He said that the Foundation originally envisioned having some oversight where its business experience could help. He has viewed expenditures that account toward the loss that he felt could be avoided. He informed the Council that the Foundation raised approximately \$30,000-\$40,000 last year, but is currently operating at a loss.

Council Member Sellers appreciated that the name of the organization has been changed because it will help everyone in terms of clarification. He stated that he would like to receive clarification about the relationship between the City and the Foundation. This will give the Foundation a sense of direction and where the aquatics center is heading, with the Foundation being allowed to provide input into the direction. He felt that staff did a good job in identifying where things have gone wrong. He wanted to know if there was a process whereby the City can make requests of the Foundation. He noted that in one of the bylaw changes mentioned in section 1, it references "Providing support to organizations that are of priority. Represent the competitive aquatics sports community of Morgan Hill in USA swimming, water polo, diving, and synchronize swimming." He felt that this was a positive statement. However, it can be taken in one of two ways: any body that does these things would be entitled or have access to funding; or if one does these things, an individual/entity might have access to funding. He felt that it would be helpful to the community and the City to further elaborate on what the process might be. He recommended clarification on the qualifications that would make an organization eligible for assistance from the Foundation. He thanked Mr. Acevedo for all that the Foundation has done.

Mr. Acevedo said that the Foundation has been approached for assistance. The first communication with individuals or organizations is verbally. When additional clarification is desired, the Foundation will request something in writing. He indicated that the Foundation has received letters from swim teams and

water polo teams for assistance. He understood the need to make the qualifications clearer. He stated that not more than \$500 has been spent on administration (e.g., paying the State of California filing fees) and that the rest has been spent on the aquatics center or toward fundraising activities/associated fees. He said that the bulk of \$50,000 went toward assisting with the maintenance and operations during the off season last year. He said that City staff asked for a solid commitment to assist with operations and maintenance and that the Foundation committed to assist. He informed the Council that the name of the foundation was changed at the request of the Council so as not to confuse anyone. He said that the Foundation originally picked the name "Morgan Hill Aquatics Foundation." However, the Morgan Hill Community Foundation was forming, at that time, and that it was felt that there might be some confusion, globally. Therefore, not to confuse anyone about the number of foundations in Morgan Hill, they used the name Morgan Hill Aquatics Center, Inc.

Mayor Kennedy did not believe that the aquatics center's \$400,000 budget deficit was the correct number.

City Manager Tewes said that a few weeks ago, staff presented an aquatics operating plan. Staff indicated that the aquatics center's loss was approximately \$358,000 for the fiscal year ending June 30, 2005. However, staff informed the Council that this number could change, based on subsequent accounting adjustments. He stated that staff has not yet closed the books. Therefore, staff does not have a final number to present to the Council, but that it is anticipated that staff's estimate is a good one.

Council Member Grzan indicated that he just came from a Financial Policy Committee and that he asked the Finance Director whether the aquatics center lost more than \$358,000. He said that the Finance Director indicated that the City lost approximately \$400,000. Therefore, the number he used this evening came from the City's Finance Director. He said that there are a number of individuals who believe the Foundation to be a self serving organization; raising monies to fund its own groups and activities. He inquired how the Foundation could help dispel some of these perceptions.

Mr. Acevedo did not believe that there were many members in the community that have this feeling, but only a few individuals who are bending the Council's ear at this time.

Council Member Grzan inquired whether the fees paid by the Foundation from fundraising efforts for the use of the aquatics facility are perceived to be self serving.

Mr. Acevedo said that the Foundation raised \$30,000 last year and that these funds supported several groups: Morgan Hill Water Polo, El Toro Brew Masters Water Polo and the Morgan Hill Swim Club. These funds were also used to purchase equipment to be used by those using the aquatics facility (e.g., long course lane lines, storage shed, etc.). He indicated that the master swimmers and tri athletes are not part of the Aquatics Foundation.

Council Member Grzan requested a financial break down of receipts and distribution of Foundation dollars. He wanted to know how much of the fees went back into Mr. Acevedo's organization. He said that it is the public's perception that this non profit organization is raising monies to meet its own

aquatics needs and that without information from the Foundation, it continues to be a sore spot in the community. He recommended that the City and/or Foundation clarify this some how.

Mr. Acevedo reiterated that it was his belief that this was a general statement and that there are only a few individuals who are questioning expenditures. He said that the funds are used to help pay for the maintenance and operation of the facility. He noted that user fees for the aquatics facility are generally higher than other similar facilities. He said that the Foundation pays the fees as it had been shown that these fees would help balance the aquatics center's budget. He indicated that John Rick would be the individual to provide Council Member Grzan with the information requested.

Council Member Carr inquired as to the status of the brick sale.

Mr. Acevedo said that brick forms are available at the brewery, city hall lobby, aquatics center lobby, and John Rick's office. He said that the brick sales is the Foundation's best opportunity to raise funds at this time. He said that \$100,000 worth of profit can still be made with the sale of bricks. He said that the sale of bricks is going relatively well. He stated that \$100,000 could be funneled into all of the things that would help the aquatics center become a better facility. He said that the Cool Brews for Cool Pools festival has proven to be a good fundraiser event, and that it would continue to be an annual fundraising effort; growing the festival. He felt that other similar festivals can be programmed. He reiterated the Foundation's willingness to assist the City with the skills of board members.

No further comments were offered.

Action: *No action was taken.*

26. REQUEST TO SCHEDULE A HALF-DAY CITY COUNCIL WORKSHOP

Council Member Grzan noted that the Council was at a half way point in the year and that this would be a good opportunity to recap where the Council is and what it has accomplished. The Council can focus on its goals and make adjustments, if necessary, as opposed to waiting to the end of the year only to find that it missed its goals. He noted that Mayor Pro Tempore Tate stated, at the last Council meeting, that it would be good to review how well the Council subcommittees are working. He indicated that he has some issues regarding crossovers and other issues that need to be discussed. He felt that a half day Council session would be good to be held during the week or weekend. He said that the use of the Council Chambers often does not allow the Council to explore other questions and dwell on other items as discussions are specific to the agenda items listed. He felt that an open forum, similar to that used at the Council's annual goal setting session, would be helpful to build relationships, look at solutions and address where the Council is and where it is heading.

Council Member Sellers recommended coordinating the workshop with other activities (e.g., city attorney selection/interviews). He would agree to a weekend session in late December or early January.

Mayor Kennedy said that Fridays are generally good days for him to meet.

The Council identified the following Fridays as possible meeting dates: September 2, 9, 16, 23, or 30.

Mayor Kennedy requested that the Council members e-mail expectations of the meeting to the City Manager or City Clerk.

Action: *It was the consensus of the City Council to **Conduct** a workshop on Friday, September 30 2 p.m. to 6:00 p.m.; concluding the meeting with dinner. Staff to assist with finding an appropriate meeting location.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

Interim Agency Counsel/City Attorney Siegel announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: General Lighting Service, Inc. v. Wells
Construction Group, et al. [Consolidated Actions]
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561

3.

CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Government Code Section 54957.6
Agency Negotiators: City Manager; Human Resources Director
Employee Organizations: AFSCME Local 101
Morgan Hill Community Service Officers Association

4.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957
Public Employee Performance Evaluation: City Manager
Attendees: City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Chairman/Mayor Kennedy adjourned the meeting to Closed Session at 8:20 p.m.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 11:28 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Siegel announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 11:30 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, AGENCY SECRETARY/CITY CLERK



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 7, 2005

AWARD CONTRACT FOR CONSTRUCTION OF PEDESTRIAN CROSSING IMPROVEMENTS AT MONTEREY ROAD AND CENTRAL AVENUE

RECOMMENDED ACTION(S):

1. Appropriate \$70,000 from the Measure C Schools Pedestrian and Traffic Safety Fund into the project account number 538005.
1. Award contract to Granite Construction Company for the Construction of Pedestrian Crossing Improvements at Monterey Road and Central Avenue in the amount of \$232,232.
2. Authorize expenditure of construction contingency funds not to exceed \$23,223.

EXECUTIVE SUMMARY: The City received a Safe Routes to School grant to construct pedestrian improvements at the intersection of Monterey Road and Central Avenue. The scope of work includes: constructing sidewalk bulb-outs and installing a median on Monterey Road south of Central Avenue, and re-striping existing crosswalks, including additional traffic warning signs, installing handicap ramps, and installing two radar speed displays. Staff had intentions of constructing the project prior to school opening on August 24, 2005, however, due to the lengthy approval process through Caltrans, the bid opening was postponed until July.

The first bid opening was held on July 26, 2005 with only one bid being received. The bidder was Granite Construction Company with a bid of \$237,237. Having received only one bid that significantly exceeded the engineer's estimate, staff rejected the bids on July 27, 2005 and the project was re-bid in hopes of obtaining competitive bids.

The second bid opening was held on August 23, 2005 with only one bid being received by Granite Construction Company for \$232,232, which is 57% higher than the engineer's estimate of \$148,000. The maximum grant reimbursement from the Safe Routes to School program is \$184,000. Based upon information from local contractors, they appear to be over extended with current projects and do not have the staff to accept additional work. The City is required to Award at this time due to the grants deadline of September 2005. Staff has reviewed the bid package for accuracy and completeness and has checked references per City procedures. Staff recommends award of the Contract to Granite Construction Company. Staff coordinated construction activities with the School District to minimize traffic impacts during school drop-off and pick-up times. The project is scheduled to commence in late September and be complete by the end of November 2005.

FISCAL/RESOURCE IMPACT: The total construction cost for this project is \$255,455, which includes a 10% contingency of \$23,223. The total project cost is estimated at \$301,000. Funding was approved by Council on January 19, 2005 from the current years un-appropriated Traffic Impact Fee Fund (309) in the amount of \$47,000 to cover non grant related work. Presently, insufficient funds are budgeted for this project; therefore, Staff recommends that \$70,000 be appropriated from the Measure C Schools Pedestrian and Traffic Safety Fund (347-37655) in order to complete the project. The project will be funded under project #538005.

Agenda Item # 17

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item # 18

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ZONING AMENDMENT, ZA-04-16; DEVELOPMENT AGREEMENT, DA-04-05: BARRETT-ODISHOO

RECOMMENDED ACTIONS:

1. Open/Close Public Hearing
2. Motion to approve the Mitigated Negative Declaration
3. Waive the reading in full of the Zoning Amendment Ordinance
4. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
5. Waive the reading in full of the Development Agreement Ordinance
6. Introduce on first reading the Development Agreement Ordinance

EXECUTIVE SUMMARY: A request for approval of a Precise Development Plan for the 36 unit Villa San Marcos project and a development agreement representing Phases I, II, & III of the project located on the south east corner of the intersection of Barrett Avenue and Butterfield Blvd.

This Zoning Amendment would establish a precise development plan for a 36 unit residential development on lots which range in size from 3,170 to 6,993 sq. ft. A reduction in the minimum lot size allows for the creation of a 1.37 acre park with amenities along the west side of the project adjacent to Butterfield Blvd. The proposed park contains the existing significant trees, recreational amenities and also serves as noise buffer. The units as proposed on the lots meet the R-2 setback and building height requirement for single family attached and detached homes.

The proposed precise development plan meets most of the RDCS commitments except for the repeat of the project elevations (additional model or elevations needed) and the project phasing plan needs to be adjusted to correspond with the number of allocations granted per fiscal year. The proposed phasing of the project improvements will also need to be amended to require the installation of the landscaping and the tot lot amenity within phase I since phase I equals 50 percent of the project. As conditions of the zoning amendment approval, new model or elevations are required, a new phasing plan is required and improvement plans for installation of the tot lot within phase I are also required

The Commission considered the Zoning Amendment at the July 26, 2005 meeting and voted 6-0 to recommend approval. The Commission also voted to recommend approval of the project's Mitigated Negative Declaration.

In accordance with established Council policy, all residential projects awarded building allotments through Measure "P" must secure Council approval of a development agreement. Development agreements are required as a formal contract between the developer and the City. The Development Agreement for Phases 1-3 is attached for Council review. The 2002 Measure "P" commitments and a processing schedule are included within the agreement. (See Exhibit "B" of the agreement for schedule.) The Commission recommended approval of the Development Agreement at the meeting of July 26, 2005. The Commission's staff report and minutes are attached for Council's reference. Staff recommends approval of the Development Agreement and Zoning Amendment, as prepared.

FISCAL IMPACT: None. Filing fees were paid to the City to cover processing of this application.

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.06 ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF BARRETT AVENUE AND SAN RAMON DRIVE (APN 817-33-003)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The City Council finds that the proposed R-2 RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.

SECTION 5. The City Council hereby approves a precise development plan as contained in that certain series of documents dated July 8, 2005 (date of receipt by the Community Development Department) on file in the Community Development Department, entitled "Villas of San Marcos Site Plan" prepared by Hanna & Brunnetti and as amended as follows:

(1) A phasing plan shall be reviewed and approved by staff which: 1) clearly defines phases I as 18 units, phase II as 5 units and phase III as 13. 2) Provides 2 Below Market Rate (BMR) and 2 moderate rate units in Phase I, one BMR and 0 moderates in phase II, and 2 BMRs and 2 moderates in phase III; and 3) installation of the park landscaping and the tot lot amenity within phase I park improvements.

(2) Additional floor plan and/or additional elevations shall be added to provide a repeat factor of 3.5 or less. All floor plans & elevation shall be reviewed by the Architectural and Site Review Board prior to final map approval.

These documents, as further amended by site and architectural review, show the exact location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of September 2005, and was finally adopted at a regular meeting of said Council on the Day of September 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of September 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION, DA-04-05 FOR APPLICATIONS MP-02-22 AND MC-04-13: BARRETT-ODISHOO (APN 817-33-003)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded building allocations for fiscal years 2005-2006 thru 2008-2009 to that certain project herein after described as follows:

| <u>Project</u> | <u>Total Dwellings</u> |
|---------------------------|------------------------|
| MP-02-22: Barrett-Odishoo | FY 2005-2006 (5 units) |
| MC-04-13: Barrett-Odishoo | FY 2006-07 (13 units) |
| | FY 2007-08 (5 units) |
| | FY 2008-09 (13 units) |

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of September 2005, and was finally adopted at a regular meeting of said Council on the Day of September 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of September 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item # 19

Prepared By:

**Acting Recreation &
Community Svc. Mgr.**

Submitted By:

City Manager

REQUEST BY SENIOR ADVISORY COMMITTEE

RECOMMENDED ACTIONS:

1. Review and discuss recommendations from the Public Safety and Community Services Committee regarding the Senior Advisory Committee; and
2. Direct staff to prepare changes to the Municipal Code as appropriate.

EXECUTIVE SUMMARY:

The Senior Advisory Committee has requested a change in its reporting relationship and purview. The Committee currently reports to the Parks and Recreation Commission. Its role is to assist the Commission in planning and developing facilities and recreational services for seniors in Morgan Hill. The Committee would like to report directly to the City Council, and for its role to be expanded to include advising the Council on transportation issues related to seniors.

The Public Safety and Community Services Committee reviewed these requests and recommends the Council adopt them. The Municipal Code would need to be modified to implement these changes.

Since the Committee discussed the Senior Advisory Committee's request, a similar request has been made by the Bicycle and Trails Advisory Committee. The Public Safety and Community Services Committee will review this request at their September 21, 2005 meeting.

On January 15, 2005, the City Manager presented recommendations on the governance structure for the City's appointed bodies in a report titled "Organizing for Public Policy." This report is included as Attachment A for your reference.

FISCAL AND RESOURCE IMPACT:

None.



ORGANIZING FOR PUBLIC POLICY

In Morgan Hill, as in most communities, the City Council establishes public policy based on many factors: individual council member perspectives on community needs, recommendations from professional staff, public hearings and input from citizen committees and task forces. The Council also uses subcommittees comprised of council members to evaluate policy options and make recommendations to the full Council.

During the annual goal setting retreat in early 2004, the Council recognized that the current approach to organizing committees and task forces may not be sustainable in the future given the adopted budget strategy that calls for permanent reductions in City costs that do not impact direct services to the public. Yet, it was also recognized that public policy decisions are improved to the extent they are informed by the thoughtful deliberations of groups with broad community representation who have been asked to evaluate specific issues.

Before considering any modifications in the policy making process, the City Council directed the City Manager to

“...evaluate the existing system of council committees and subcommittees, as well as its citizen commissions, committees and task forces and prepare recommendations for reducing costs, enhancing communication and improving decision-making processes.”

This report presents the City Manager's evaluation and recommendations, with full recognition that the three objectives (cost reduction, improved communication and improved decision making) require balancing different values. For example, costs could be reduced by significantly reducing the number of committees and commissions making it easier to communicate with those few remaining, but it might not improve decision making. Similarly, decision making might be improved to the extent additional analytical resources were devoted to the citizen commissions, but at additional budgetary cost.

This report recommends modifications in three areas:

- The organization of Council committees;
- The appointment of individual council members to liaison roles on outside organizations and citizen commissions; and
- The organization of citizen commissions, committees and task forces.

For each area, there is a short description of the current approach with a discussion of the pros and cons. In some instances, the recommendations for modifications require only Council concurrence in a different approach. In others, specific changes in ordinances would be necessary. It is expected the Council would engage in its own evaluation of the report and recommendations before a full implementation plan is developed.

Council Committees

During 2004, City Council was assisted in policy development by the following committees comprised of council members themselves.

- Finance and Audit Committee
- Economic Development Committee
- Legislative Committee
- Library Location Subcommittee
- Aquatics Center Subcommittee
- Indoor Recreation Center Subcommittee
- Gamel Expansion “Red Team”
- Medical Services Subcommittee
- Regional Soccer Complex Subcommittee
- Personnel Subcommittee

Finance and Audit Committee

The mission and purpose of this committee was established by Council action in 1997. (See Attachment A). With an established policy jurisdiction and regular meetings, this committee is a “Brown Act Committee” requiring public meetings and posting of

agendas and minutes. Council membership is rotated every six months with members serving a one year term. The City Treasurer is a continuing member of this committee.

Economic Development Committee

This committee was established in 2003 when it became apparent that individual proposals for economic development assistance required policy perspectives as well as staff analysis of business terms. The committee also recommended a formal Economic Development Policy which was adopted by the Council. Because the committee was expected to have no continuing jurisdiction, and would meet only when needed, it was considered not to be a “Brown Act Committee.” However, upon advice of the City Attorney, the Council agreed to review the functions of the committee after one year to determine if it would be appropriate to formalize the committee. A few months ago, the Council made the current appointments to the committee with the expectation the terms would last for one year.

Legislative Committee

Two council members were appointed to annually review and recommend a “legislative platform,” and individual issues referred by the Council.

Library Location Subcommittee

Two council members were appointed to make a recommendation to the full Council on location of the new library, in the event a State grant was not received for a larger library already determined to be located at the Civic Center. During the course of its work, the subcommittee invited interested citizens to join them in evaluating options. The subcommittee made its report and recommendations to the Council on July 21, 2004, completing its work.

Aquatics Center Subcommittee

Two council members were appointed to make recommendations on the construction and operation of the Aquatics Center. The subcommittee recommended an architect team, made recommendations on scope and funding for the construction project, made recommendations on the price structure and operational policies for the center and recently recommended to the Council that the facility remain open throughout the year under certain conditions. The subcommittee has also reviewed a “wish list” of capital improvements at the Aquatics Center, and may develop recommendations for Council consideration as part of the FY 06 Budget discussions.

Indoor Recreation Center (IRC) Subcommittee

Two council members were appointed to make recommendations on the construction and operation of the IRC. The committee was established after several Council discussions of the scope and purpose of the project, and consideration of a proposal from the YMCA to contract with the City to provide “health and fitness” services at the IRC. The committee recommended a financing strategy and changes in the scope of the project to reduce costs. During the course of its work, the subcommittee invited representatives from the Parks and Recreation Commission and the YMCA to participate in the evaluation of

options. The subcommittee recommended approval of the design development phase of the project and the Council has authorized preparation of construction drawings and public bidding on the project in March 2005.

Gamel Expansion “Red Team”

The Mayor asked another member of the Council to join him in evaluating options to retain Dan Gamel R.V. in Morgan Hill and to expand operations. The committee recommended an economic development assistance package that was approved by Council on September 22, 2004, completing its work.

Medical Services Subcommittee

Two members of the Council were appointed to draft an update to the Medical Services Policy. A new “Medical Services Policy and Objectives” was adopted by the Council on August 25, 2004, completing the subcommittee’s work.

Regional Soccer Complex Subcommittee

Two members of the Council were appointed to interact with elected officials in the City of San Jose to facilitate the development of a regional soccer complex on the Sobrato school site.

Personnel Subcommittee

From time-to-time, Council has appointed two members to serve as a subcommittee to oversee matters relating to the employment of the City Manager and City Attorney. Recommendations of such subcommittee are considered by the full Council in public session.

Observations:

The use of committees and subcommittees allows the full Council to receive the benefit of elected official input into complex policy questions that require more than just staff or citizen input. The committees and subcommittees work best when they consider the full Council as the “client” for their work. The committees and subcommittees are not “mini City Councils” and do not have the authority or responsibility to direct resources or make policy. They are intended to provide analysis and recommendations to the full Council.

Under such a system, however, there is the potential for accountability to be diffused and unclear. Staff works with the subcommittee and provides input, analysis and recommendations, and generally the subcommittee and staff concurs in the final report. However, there is a natural tendency to become less concerned about developing an independent staff perspective when a Council subcommittee has been appointed. Especially in the instance when the Council has asked a subcommittee to recommend the selection of architects or consultants, the staff views will be presented at the committee level, but not presented to the full Council.

Whenever a subcommittee has been appointed, it is natural for citizens and those interested in the subject matter to consider the members of the subcommittee to be the official spokespersons for the Council on the issues. In some instances that is appropriate; such as in the case of the Regional Soccer Complex Subcommittee which was specifically appointed to represent the City's views with other agencies. However, in others, the subcommittee has simply been charged with analyzing policy options and presenting them to the Council for later determination.

It is equally natural for citizens and others to consider the members of a subcommittee to be problem solvers on behalf of the Council, hearing concerns about the wisdom of City policies or the fairness of their implementation. In some cases, members of a subcommittee facilitate dialogue among parties in a dispute and assist in reaching a resolution. Individual council members may appreciate that someone has been assigned to be responsible, but it is important to maintain communication with the rest of the Council to ensure solutions are consistent with Council policy or that policy not be established indirectly without the benefit of full Council review.

It is not clear that the burden of work is shared equitably among council members or that the assignments always represent the priority interests of individual councilmembers. With only one standing committee, (maybe two, including Economic Development) there are limited opportunities for council members to contribute in the areas of their greatest interest. The relatively short rotations on the Finance Committee and the Economic Development Committee maximize council member participation, but limit the opportunity for any single council member to gain sufficient background and experience to maximize effectiveness.

Scheduling meetings for busy council members is difficult. The Finance Committee seeks to hold meetings prior to regularly scheduled Council meetings, but often Council priorities for closed sessions or workshops create conflicts or reduce the amount of time that can be devoted. The ad hoc subcommittees do not have regular meeting times so extra effort is required to arrange for meetings convenient to the members.

Recommendations:

It is recommended that the use of single issue subcommittees be minimized and a system of five standing committees be established instead. The subject matter of the five committees should be defined to include most matters that would require complex policy recommendations from an elected official perspective. Each committee would review proposed state and federal legislation within its jurisdiction and make recommendations to the full Council as appropriate.

With two-member committees, each council member would chair one committee and be a member of another. Each year, the chair of the committee would move to another committee assignment and the other council member would become chair, allowing for continuity.

The five committees should have regular meetings at least once per month with additional meetings only called as necessary. Committee members should establish a date and time for meetings that can then be fixed.

The five recommended committees are:

- Financial Policy Committee

To consider all policy matters relating to the budget, revenues, investments, borrowing and audits. (Except utility rates)

- Regional Planning and Transportation Committee

To consider all policy matters relating to the jurisdiction of ABAG, MTC and VTA as well as land use and transportation decisions of other agencies that impact Morgan Hill. (Except for Regional Fair Share Housing Needs)

- Community and Economic Development Committee

To consider all policy matters relating to City land use planning, economic development and housing, including review of proposals for RDA assistance.

- Utilities and Environment Committee

To consider all policy matters relating to the City's water and sewer enterprises including rates, flood control, and all policy matters relating to protection of environmental resources.

- Public Safety and Community Services Committee

To consider all policy matters relating to the provision of all other City services including police, fire, recreation and infrastructure maintenance; as well as policy matters relating to services pro-vided by other agencies or entities such as library, arts, cultural and historical organizations.

An example of how rotations could work is attached as Attachment B. By using a two year cycle, the opportunity for council members to gain experience and provide leadership on a single committee is balanced against the opportunity to participate in at least four committees in a four year term for a council member.

Council Liaison Assignments

In addition to Council subcommittee work, council members have at least four other types of assignments:

- ▶ Appointment as Council liaison to one of the standing City Commissions;
- ▶ Appointment to serve as a Council representative on a citizen task force;
- ▶ Appointment to serve as the Council's voting representative on another agency or organization's board; and
- ▶ Appointment to serve as Council liaison to outside organizations.

Observations:

The role of "liaison" is not well defined and not consistently pursued. In some cases, a Council "liaison" attends most of the meetings of the organization, but, in others, the liaison only attends when a special matter requires attendance. In some cases, the "liaison" simply conveys Council's articulated interests to the organization and reports back to the full Council. In some instances, the "liaison" has helped the committee or organization formulate recommendations to the full Council.

The City commissions especially have expressed support for the liaison function. They view their volunteer work seriously and want to be helpful to the Council, and they believe they can be most helpful when there is clear communication of Council expectations. By and large, the commissions believe that, that is the most important role of a Council liaison.

Outside organizations also support attendance by council members at their meetings, but the role of the "liaison" is less well understood. In some cases, the Council liaison has helped outside groups formulate their strategies and have given guidance on how those groups might best present their case to the Council when City government assistance is needed. Even when the council members attending outside group meetings to merely provide their individual perspective on issues, the groups find it helpful; especially when they are "counting votes."

There is the potential for confusion, however, when council members assigned to a Council subcommittee are not the same ones who attend meetings of groups whose policy interests overlap with the jurisdiction of the subcommittee.

Some of the Council appointments are to the governing bodies of important public agencies. It often takes years to "move up through the chairs" to leadership roles in those agencies, so continuity of assignment can be important.

Recommendations:

For liaison assignments to City commissions, it is recommended that appointments be limited only to two of the reorganized commissions described below: The Parks and Recreation Commission and the Library, Culture and Arts Commission. The role of the Council appointed “liaison” should be to attend meetings, convey the Council’s expectations and interests as articulated in public Council meetings and to report back to the full Council on the work plan of the commission, and its recommendations.

For liaison assignments to outside organizations, to the extent possible, the council members who sit on the relevant Council committee should be assigned to those outside organizations who have similar policy interests. For example, the members of the Council’s Community and Economic Development Committee should be assigned as liaison to the Chamber of Commerce’s Economic Development Committee.

In all cases, the council member assigned as liaison should report to the full Council from time-to-time, either using the oral report opportunity at regular Council meetings or by providing a written report.

Citizen Committees, Commissions and Task Forces

There are five standing commissions or boards appointed by the City Council:

- Planning Commission;
- Architectural and Site Review Board;
- Mobile Home Rent Commission;
- Parks and Recreation Commission; and
- Library Commission.

(Various sections of the Municipal Code make references to the Personnel Commission and to a Health Commission that should be eliminated as part of any comprehensive updates.)

Each of the above commissions or boards is subject to the Brown Act requiring notice of meetings, a record of the meeting and an opportunity for the public to be heard. The first three groups have regulatory authority in addition to advisory responsibilities. Their decisions may be appealed to the City Council. The number of commission members varies for each group. Members are appointed by the Mayor with the consent of the Council, and serve at the pleasure of the City Council.

Planning Commission

State law requires certain planning matters to be first reviewed by a planning commission before they may be enacted. In addition, the Municipal Code grants the commission the authority to approve tentative subdivision maps, conditional use permits and zoning variances. Morgan Hill's voter approved Residential Development Control System also gives the Planning Commission specified responsibilities including "scoring" applications and awarding allocations for most new residential projects. The commission is comprised of seven individuals serving four year overlapping terms. One of the members may live outside the city limits provided that he or she lives within the designated Sphere of Influence. The commission typically meets two times per month, with occasional special meetings including joint workshops with the Council or other committees. Costs for supporting the commission include agenda preparation and noticing, as well as staff attendance at meetings and legal advice. All expenses are accounted for in the Community Development Fund which is financed by charges to applicants.

Architectural Site and Review Board (ARB)

The board was reinstituted after a period of time when the Community Development Director had been authorized to issue site and architectural review permits under the Municipal Code. The board is comprised of five individuals who are to represent designated professions: an architect, a landscape architect, a general contractor, and two other persons with experience in the subject matters before the board. One member may reside outside the city limits, but within the Sphere of Influence. The board has regular monthly meetings to review applications for site and architectural review. Recently, the board established a subcommittee process in which two members of the board meet informally with applicants to review plans and provide comments. The ARB subcommittee will advise the applicant whether the matters under review will be placed on the "consent calendar" of the ARB, making a subsequent presentation by architects unnecessary.

Mobile Home Rent Commission

The duties of the commission include monitoring the effectiveness of the rent stabilization ordinance and to hear and determine petitions from mobile home park owners for rent increases. The five person membership is comprised of a representative of park owners, a representative of tenants, and three at large members. The commission is staffed by the Director of Business Assistance and Housing Services. It meets quarterly or as needed to review applications.

Parks and Recreation Commission (PRC)

The duties of the commission include developing recommendations to the council for both facilities and programs relating to parks, cultural facilities, recreation and bicycle facilities. The commission is comprised of seven members serving two year overlapping

terms. It meets monthly and is staffed by the Recreation and Community Services Manager and the Deputy Director of the Public Works. The commission is also authorized to appoint three committees to assist it in meeting its responsibilities:

- Senior Advisory Committee;
- Youth Advisory Committee; and
- Bicycle and Trails Advisory Committee (BTAC).

Library Commission

The duties of the commission include advising the Council on the adequacy of library services and existing library facilities, to serve as a liaison between the City and the Santa Clara County Library and to serve as a liaison between groups supportive of library programs and the city. It is comprised of nine members, no less than six of whom must be residents of the city. (No less than four must be registered voters within the City.) There are monthly meetings.

Observations:

The “costs” of maintaining a system of citizen committees and commissions includes both out of pocket budget costs, capital cost increases due to delay in approvals and opportunity costs. In 1992, facing a budget crisis, the Council eliminated several committees and commissions. City staff had been reduced and the ability to provide support diminished significantly. It is not clear how much was actually saved by eliminating committees. Certainly, the elimination of the recreation programs had a more significant impact on cost cutting.

Today, I estimate the budgetary cost of supporting the General Fund committees is less than \$20,000 per year. (The Planning Commission, ARB and Mobile Rent Commission are supported by staff whose costs are paid by applicants.) Those costs are largely in additional staff overtime, meeting room costs for utilities and clean up and the costs of producing notices, reports, and minutes. This is just an estimate.

The requirement that certain projects be reviewed first by committees, increases the time to make decisions, and increases capital costs for both private and public projects. The value of the committee processes can be evaluated by whether the resulting decisions lead to better projects.

The opportunity costs are the value of alternative activities that could not be conducted because of time needed to support committees, or issues that were not considered because they didn’t fall within the jurisdiction of an existing committee. In 1992, the decision to eliminate some committees may have been motivated as much by the desire to eliminate distractions as to save budget dollars.

The quality of committee recommendations is a function of the quality and motivation of the members, as well as the quality of the support they receive. Committee members tend to view satisfaction with their roles as dependent on the extent to which the Council seriously considers their recommendations. Yet, the Council's responsibility is to integrate a variety of perspectives, including competing objectives and the need to adopt programs that are financially sustainable. On occasion, the Council adopts a different approach than the one recommended by a citizen committee. As stated at the outset, it is the Council's obligation to integrate a variety of perspectives. It is important to recognize that committees with interest in only a few issues can impact the public policy debate by "turning up the volume" and drowning out other perspectives which are not represented by a formal committee.

There is a recent phenomenon that tends to exacerbate this shortcoming of a committee system. Increasingly, members of committees attempt to influence Council policy deliberations acting as "individual citizens." Rather than allowing the committee's report and recommendation to speak for it, some members feel compelled to add individual perspectives "for emphasis." On occasion, individual members attempt to organize others in the community to lobby the Council. So, rather than a group which seeks out and responds to citizen input in formulating recommendations, a committee can become an advocacy group which itself becomes a political actor.

The workload of committees and commissions varies. For some, their work is dominated by assignments by the City Council or the applications to be reviewed. For others, the topics to be discussed are driven by the interests of the members and the activities they wish to pursue. When there are few Council assignments, there is a tendency among members to construe their committee's jurisdiction widely, and they explore issues that may or may not be consistent with Council's expectations. For those committees that are appointed by and report to the Parks and Recreation Commission, there is a belief by many members that their issues are important enough to warrant a direct reporting relationship with the Council, without the need for the PRC to act as an intermediary.

Recommendations:

No changes in the number or reporting relationships of committees are recommended at this time. However, it is recommended that a portion of the jurisdiction of the Parks and Recreation Commission be transferred to the Library Commission. By including responsibility for "cultural facilities" as well as a new responsibility for "public art," the Library Commission should be renamed the "Library, Culture and Arts Commission."

It is recommended that commission membership be established at no more than seven persons. For those commissions with more than seven, it is recommended that the number be reduced to seven through attrition as terms expire.

Specifically, no changes are recommended in the current reporting relationships for the Senior Advisory Committee, the Youth Advisory Committee and the Bicycle and Trails

Committee. Each of these three is appointed by and reports to the Parks and Recreation Commission. Especially with the new Indoor Recreation Center, it is important that the interests of youth and seniors be made known to the PRC so decisions about program offerings and facilities can be integrated with other parks and recreation issues.

For some issues, the concerns of BTAC relate more to transportation planning than to “parks and recreation,” but the PRC responsibilities do extend to the review of capital expenditures. Absent other committees responsible for transportation (and a new “Streets and Transit Committee” is NOT recommended), BTAC should continue to report to the PRC.

The most important recommendation is that each committee or commission prepare an Annual Work Plan for review and approval by the Council. The work plan should set forth the issues to be addressed during the succeeding year, and the expected level of staff support. The Council could provide direction to each commission to develop a work plan to complement the Council’s adopted goals for the year, and include instructions such as develop ideas for minimizing budget costs for staff support.

Here is the recommended schedule:

- | | |
|-------------|---|
| January | Council meets in an annual goal setting session. |
| February | Council adopts goals and expectations for staff and commissions. |
| March/April | Committees and commissions prepare a work plan for the fiscal year beginning July 1. |
| May | Committees and commissions work plans are presented as part of the City Manager’s Recommended Budget. |
| June | Council adopts the budget and approves the work plans. |
| July | Work plan implementation begins. |
| August | End-of-year report on implementation of the previous year’s work plan. |
| January | Mid-year report from committees and commissions on work plan progress. |



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item #20

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

IMPROVING THE EFFECTIVENESS OF CITY COUNCIL MEETINGS

RECOMMENDED ACTIONS:

1. Council **Consideration and Discussion** Regarding the Attached Proposal to Improve Effectiveness of City Council Meetings;
2. **Adopt** items 1-10 from the list of "Improving the Effectiveness of Council Meetings," as deemed appropriate; and
3. **Identify** implementation date

EXECUTIVE SUMMARY:

Mayor Kennedy attended the League of California Cities Mayors and Council Members Academy, Advanced Leadership Workshop entitled "Presiding Officers Workshop" on July 29 and July 30, 2005. The workshop provided practical tips and skills for participating, or running a meeting; as well as covering both formal procedures and informal facilitation skills. The presenters at the Advanced Leadership Workshop were, Wendy Feldman Kerr, Mayor, Town of Queen Creek, Arizona; and Martin Vanacour, Ph.D., CEO, Dynamic Relations LLC, Glendale, Arizona.

Mayor Kennedy met with Mayor Pro Tempore Tate, City Manager Tewes, and City Clerk Torrez following the workshop to discuss opportunities for improving the effectiveness of City Council meetings. After a brainstorming discussion, the Mayor is recommending suggestions for improving meeting effectiveness. Attached to the staff report are the following:

1. A recommended list of items that would Improve the Effectiveness of City Council meetings;
2. *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* for Council consideration; and
3. Council Policy, CP-97-01: Rules for the Conduct of City Council meetings.

Staff has reviewed the list of recommended changes and has tried to match the changes with Council Policy, CP-97-01.

Mayor Kennedy is suggesting that the Council vote on each item attached to the list of "Improving the Effectiveness of City Council Meetings" for future implementation.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.

Improving the Effectiveness of City Council Meetings

August 2005

- 1) Adopt Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century (see copies distributed to Council Members)
 - First:* Chair announces agenda item/states subject
 - Second:* Chair invites report from appropriate person
 - Third:* Chair asks for technical questions from council members
 - Fourth:* Chair invites public comment
 - Fifth:* Chair invites a motion from council members
 - Sixth:* Chair requests a second
 - Seventh:* Chair asks that motion be repeated by either the maker of motion, clerk or chair
 - Eighth:* Chair invites discussion of motion by council members
 - Ninth:* Chair asks for a vote if minimal discussion occurs; reiteration of motion if extensive discussion occurs
 - Tenth:* Chair announces the result of vote and any action taken, making note of how the votes were cast.
 - Note:* Council subcommittees are to take the lead on action items upon which their subcommittees have previously addressed
- Reference City Council Rules for the Conduct of Meetings: CP-97-01, Section 7.1, 7.2, 7.3; and City Council Policies and Procedures*
- 2) Rearrange Dias seating by having Mayor in center position with two council members on each side, thus moving the City Attorney to the Mayor's far left of Dias. Mayor Pro Tem to the right of Mayor
- 3) Utilize "work study" sessions to address complex, controversial issues
 - a) Work study sessions consist of council discussions followed by public comment
 - b) Work study sessions will be determined by Mayor and City Manager and shall include those topics requiring lengthy and technical discussions
 - c) Sessions can occur prior to a council meeting, or can be scheduled during a council meeting for a future time when an item requires further research or extensive discussion
 - d) 'Work study sessions' can occur 1 hour prior to a council meeting; 'Workshops' are scheduled for items that require a 2-4 hour discussion
 - e) Council members or staff may identify a need for a work study session or workshop
- 4) Implement a 'raised hand' or 'light system' which council members press when requesting to speak

Reference City Council Rules for the Conduct of Meetings: CP-97-01, Section 7.1, Item B 1

- 5) City Manager determines when and where an item appears on a council agenda, and will establish specific criteria for setting the agenda. City Manager will consult with Mayor as necessary
- 6) The order of speakers:
 - a) begin with the Chair of a sub-committee or special committee
 - b) proceed to staff input
 - c) end with council comment utilizing either a raised hand or light system
 - d) Mayor will focus on taking issues one at a time making sure that council members and presenters stay on topic by stating a need to return to original topic. Mayor Pro-Tem will assist the Mayor as necessary to maintain focus on issues
 - e) Sub-committee will submit a brief report which will appear behind the staff report in the council agenda reflecting their recommendations

Reference City Council Rules for the Conduct of Meetings: CP-97-01, Section 7.1 Item C 3

- 7) In order to enhance the accessibility of council meetings and encourage greater citizen participation, schedule several town hall sessions for Saturdays throughout the year.
- 8) Ceremonial duties will be shared by Mayor and council members
 - a) Rotate the presentation of proclamations, certificates and new employee introductions amongst council members
 - b) No longer ask recipients to address the council unless a specific presentation is deemed appropriate
- 9) Speakers will generally be allowed 3 minutes to address the council
 - a) When several speakers wish to address council on the same subject, a representative can be appointed to speak for a total of 6 minutes
 - b) Developers will be given 10 minutes to address council and will be allowed to make a rebuttal following council discussion

Reference City Council Rules for the Conduct of Meetings: CP-97-01, Section 6.1, 6.2

- 10) If an item is pulled from the consent calendar, the Mayor or Council Member is to briefly state the title of the item

Reference City Council Rules for the Conduct of Meetings: CP-97-01, Section 5.1 Item N



CITY COUNCIL STAFF REPORT

MEETING DATE: September 7, 2005

Agenda Item #21

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

BOARD, COMMISSION, AND COMMITTEE MEMBERS' COMMENTS ON CITY COUNCIL ETHICS POLICY

RECOMMENDED ACTIONS:

1. **Discussion** Regarding the Attached List of Comments Received from Commission, Committee and Board Members regarding the Council's Ethics Policy;
2. **Determine** if comments and opinions are to be incorporated into the City Council adopted Ethics Policy; and
3. **Direct** Staff to Schedule Board, Commission, and Committee Ethics Policy Workshop

EXECUTIVE SUMMARY:

In late 2003, the City Council embarked on a process to revise and update the City's Ethics Policy. The City Council appointed Mayor Kennedy and Mayor Pro Tempore Tate to work with the City Manager and City Attorney on the update of the policy. On November 11, 2003, the City Council conducted an ethics workshop, inviting all boards, committees and commissions to discuss a value-based approach ethics policy. Following this meeting, the City Council ethics subcommittee worked with a task force of interested committee and commission members to work on a draft ethics policy for Council consideration. This Task Force met six times in 2004, discussing various public sector ethical values, including material from the League of California Cities, and what behaviors illustrated those values.

The Task Force prepared a draft Ethics Policy for Council consideration which it believes sets forth the ethical standards Morgan Hill citizens should expect from elected officials, and what elected officials should expect from themselves and from their colleagues. The Council considered and adopted the Ethics Policy on April 20, 2005, and agreed to distribute the Policy to all Board, Commission, and Committee members.

Staff has compiled responses from the Board, Commission and Committee members to the Council's adopted Ethics Policy. The Library and Planning Commissions each offered the incorporation of a comment:

- The addition of a bullet point to state: Public officials to encourage a diversity of opinions to be expressed during public debate and discussion (Planning Commission).
- Section 4, Accountability – a recommendation that violations of the Ethics Policy shall warrant removal from office (Library Commission).

The other Board, Commission and Committee members were in support of the Council's Ethics Policy, as written. Should the Council concur with the recommended changes; the Council can incorporate the changes into the adopted Ethics Policy, attached. The next step in the process is to have staff schedule a training session on the Ethics Policy with Board, Commission, and Committee members. The Ethics Policy is expected to become a "living document" with an annual opportunity for review and update.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.



CITY COUNCIL/REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: *September 7, 2005*

REVIEW CITY COUNCIL AND REDEVELOPMENT AGENCY'S SEPTEMBER, NOVEMBER, DECEMBER AND JANUARY MEETING SCHEDULE

Agenda Item # 22

**Prepared/Approved
By:**

**Council Services &
Records Manager**

Submitted By:

City Manager

RECOMMENDED ACTION:

1. City Council and Redevelopment Agency **Discussion** and **Direction** Regarding the September, November, December and January meeting schedule

EXECUTIVE SUMMARY:

Annually, staff brings to the City Council/Agency Board the discussion of your November, December and January meeting schedule. The City Council and Redevelopment Agency are scheduled to meet as follows: November 2 & 16 (regular Council meetings); November 23 (regular Redevelopment Agency meeting); December 7 & 21 (regular City Council meetings); December 28 (regular Redevelopment Agency meeting); January 4 & 18, 2006 (regular Council meetings), and January 25, 2006 (regular Redevelopment Agency meeting).

Typically, the City Council/Redevelopment Agency holds two meetings during the months of November and December to accommodate the Thanksgiving and Christmas holidays; canceling the regular meetings of the Redevelopment Agency before the Thanksgiving and Christmas Holidays.

For the past few years, the City has furloughed non-emergency staff members. City Hall will be closed on December 23 and December 26, 2005 and January 2, 2006 for the Holidays. It is being proposed that non-emergency staff members be furloughed December 27, 2005 through December 30, 2006, reopening City Hall for business on Tuesday, January 3, 2006.

Staff requests City Council/Agency Board direction regarding the November, December and January meeting schedule. The City Council/Redevelopment Agency may wish to consider adjusting its meetings during these three months, as deemed appropriate. Attached to the staff report is the calendar for the months of November and December 2005 and January 2006 for Council/Redevelopment Agency reference.

Regarding the Council's September meeting schedule, staff has reviewed the upcoming agenda items and noted that the Council's September 28 meeting only has one item tentatively scheduled for Council consideration. The Council may wish to consider canceling the September 28 meeting. The Council subcommittees could use this evening to conduct meetings. Staff will also note that the Council has scheduled a workshop for Friday, September 30 from 2:00 – 6:00 p.m.

FISCAL IMPACT: None.